

NORTH CAROLINA  
MARINE FISHERIES COMMISSION  
RULES

APRIL 1, 2020



MARINE FISHERIES COMMISSION  
Rob Bizzell, Chair

DEPARTMENT OF ENVIRONMENTAL QUALITY  
Michael S. Regan, Secretary

DIVISION OF MARINE FISHERIES  
Stephen W. Murphey, Director  
<http://portal.ncdenr.org/web/mf>

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MARINE FISHERIES COMMISSION  
RULES

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**Division of Marine Fisheries  
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**24-Hour Contact**

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# N.C. MARINE FISHERIES COMMISSION

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## Introduction

The *North Carolina Marine Fisheries Commission Rules* is a collection of state rules and statutes governing activities impacting marine and estuarine resources in coastal and joint fishing waters, including the brackish waters of the state's rivers and their tributaries, sounds and bays, and in saltwater extending out to three miles offshore in the Atlantic Ocean. The N.C. General Assembly (<http://ncleg.gov/>) enacts fisheries statutes, or laws, and provides the N.C. Marine Fisheries Commission authority to adopt rules to implement those statutes. These rules are found in Chapters 03 and 18 of Title 15A of the N.C. Administrative Code (<http://www.oah.nc.gov/>).

The Department of Environmental Quality is the parent agency of the N.C. Marine Fisheries Commission and the N.C. Division of Marine Fisheries. The commission is responsible for managing, protecting, preserving, and enhancing the marine and estuarine resources under its jurisdiction. In support of these responsibilities, the division conducts management, enforcement, research, monitoring, statistics, and licensing programs to provide information on which to base decisions on rule making. The division presents information to the commission and department in the form of fishery management and coastal habitat protection plans and proposed rules. The division also administers and enforces the commission's adopted rules.

The N.C. Wildlife Resources Commission (<http://www.ncwildlife.org/>) is responsible for regulating fishing activities in inland waters (see 15A NCAC 03Q .0200 for boundary descriptions.) The Atlantic States Marine Fisheries Commission (<http://www.asafc.org/>) and the federal government, including the National Oceanic and Atmospheric Administration Fisheries (<http://www.fisheries.noaa.gov/>) and federal fishery management councils, namely the Mid-Atlantic Fishery Management Council (<http://www.mafmc.org/>) and the South Atlantic Fishery Management Council (<http://safmc.net/>), manage species that migrate across state boundaries or fisheries occurring in the Exclusive Economic Zone from three miles out to 200 miles in the Atlantic Ocean. Coastal and joint fishing waters typically lie between inland waters and the Exclusive Economic Zone. State inspectors may enforce federal regulations if state rules are adopted to complement management measures adopted by the Atlantic States Marine Fisheries Commission, National Oceanic and Atmospheric Administration Fisheries, or the federal fishery management councils.

The public may comment on proposed rules at public meetings of the N.C. Marine Fisheries Commission and its committees and at public hearings announced in the *North Carolina Register* (<http://www.oah.nc.gov/>). Persons proposing the commission amend, repeal, or adopt a fisheries rule may suggest rule changes through public comment opportunities provided at commission meetings or by filing a petition with the commission following the procedures set out in 15A NCAC 03P .0300.

Another tool the state uses to manage fisheries is the proclamation. The commission has the authority to delegate to the fisheries director the ability to issue public notices, called proclamations, suspending or implementing particular commission rules that may be affected by variable conditions. The proclamation authority granted to the fisheries director includes the ability to open and close seasons and fishing areas, set harvest and gear limits, and establish conditions governing various fishing activities. Proclamation authority and proclamation measures are codified in rules.

Proclamations are not included in this book because they change frequently. However, a “◆” symbol is used in the index of the rulebook as a visual sign to alert readers there may be a proclamation for a subject. For example, when you are looking in the index for information on bluefish and you see “**bluefish◆**” that indicates there may be a proclamation outlining harvest restrictions or other information for that species.

Go to <http://portal.ncdenr.org/web/mf/proclamations> to view proclamations and learn about the restrictions. You can also sign up to receive proclamations electronically at this site. If you need assistance, please call 252-726-7021 or 800-682-2632. Regulations implemented by proclamation can be effective immediately for public health issues and quota-managed fisheries, and in as little as 48 hours for other issues. It is imperative that persons affected by proclamations keep themselves informed.

**It is your responsibility to know and abide by fishing regulations,  
including proclamations, rules, statutes, and laws. Compliance today  
means fish for the future.**

## NOTICE

Many restrictions for the following list of finfish species have been removed from rule or are covered by general proclamation authority in 15A NCAC 03M .0512. This was done in order for North Carolina to better comply with interstate, coastwide, or regional fishery management plans. The affected species are:

alewife (river herring)	menhaden, Atlantic
bass, striped (rockfish)	monkfish
bluefish	scup
cobia	sea bass, black
croaker, Atlantic	seatrout, spotted (speckled trout)
dogfish, spiny	shad, American
dolphin	shad, hickory
drum, black	<b>shark complex*</b>
drum, red (channel bass, puppy drum)	<b>snapper grouper complex**</b>
eel, American	spot
flounder, summer	sturgeon, Atlantic
herring, blueback (river herring)	tautog
mackerel, king	wahoo
mackerel, Spanish	weakfish (gray trout)

\* The **shark complex**, including prohibited and research-only species, includes, but is not limited to: angel, Atlantic; basking; bignose; blacknose; blacktip; blue; bonnethead; bull; dogfish, smooth (smoothhound); dusky; finetooth; Galapagos; hammerhead, great; hammerhead, scalloped; hammerhead, smooth; lemon; mako, longfin; mako, shortfin; narrowtooth; night; nurse; porbeagle; reef, Caribbean; sand tiger; sand tiger, bigeye; sandbar; sevengill; sharpnose, Atlantic; sharpnose, Caribbean; silky; sixgill; sixgill, bigeye; smalltail; spinner; thresher, bigeye; thresher, common; tiger; whale; white; whitetip, oceanic.

\*\* The **snapper grouper complex**, including prohibited species, includes, but is not limited to: amberjack, greater; amberjack, lesser; coney; graysby; grouper, black; grouper, gag; grouper, goliath; grouper, misty; grouper, Nassau; grouper, red; grouper, snowy; grouper, Warsaw; grouper, yellowedge; grouper, yellowfin; grouper, yellowmouth; grunt, white; hind, speckled; hogfish; jack, almaco; jack, bar; margate; porgy, jolthead; porgy, knobbed; porgy, red; porgy, saucereye; porgy, whitebone; red hind; rock hind; rudderfish, banded; sailor's choice; scamp; scup; sea bass, black; snapper, blackfin; snapper, cubera; snapper, gray; snapper, lane; snapper, mutton; snapper, queen; snapper, red; snapper, silk; snapper, vermilion (beeliner); snapper, yellowtail; spadefish; tilefish, blueline; tilefish, golden; tilefish, sand; triggerfish, gray; tomtate; wreckfish. Please refer to the South Atlantic Fishery Management Councils' website (<http://safmc.net/>) for an up to date list of species within the snapper grouper complex.

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**NORTH CAROLINA ADMINISTRATIVE CODE  
TITLE 15A – ENVIRONMENTAL QUALITY  
CHAPTER 03 – MARINE FISHERIES**

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S.L. 2011-145	AN ACT TO SPUR THE CREATION OF PRIVATE SECTOR JOBS; REORGANIZE AND REFORM STATE GOVERNMENT; MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS AND INSTITUTIONS; AND TO ENACT BUDGET RELATED AMENDMENTS. [Sections 1.1; 1.2; 13.3(g), (ppp), (rrr), (ttt), (vvv), and (www); and 32.6 only] .....	158
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TITLE 15A – ENVIRONMENTAL QUALITY  
CHAPTER 03 – MARINE FISHERIES**

**SUBCHAPTER 03H – SCOPE OF MANAGEMENT**

**SECTION .0100 – SCOPE OF MANAGEMENT**

**15A NCAC 03H .0101 IDENTIFICATION INFORMATION**

*History Note:* Authority G.S. 113-134;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1994;  
Temporary Repeal Eff. July 1, 1999;  
Repealed Eff. August 1, 2000.

**15A NCAC 03H .0102 SCOPE OF MANAGEMENT**

The rules in this Chapter apply to the conservation and protection of marine and estuarine resources occurring in all coastal fishing waters of North Carolina, including joint fishing waters, and in the Atlantic Ocean.

*History Note:* Authority G.S. 113-129; 113-132; 113-134; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. April 1, 2011;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

**15A NCAC 03H .0103 PROCLAMATIONS, GENERAL**

(a) It is unlawful to violate the provisions of a proclamation issued pursuant to a rule of the Marine Fisheries Commission, as provided in G.S. 113-221.1.

(b) If specific variable conditions are not set forth in a rule of the Marine Fisheries Commission that grants proclamation authority to the Fisheries Director, the Fisheries Director shall consider the following variable conditions in exercising proclamation authority:

- (1) compliance with changes mandated by the Fisheries Reform Act and its amendments;
- (2) biological impacts;
- (3) environmental conditions;
- (4) compliance with Fishery Management Plans;
- (5) user conflicts;
- (6) bycatch issues;
- (7) variable spatial distributions; and
- (8) protection of public health related to the public health programs that fall under the authority of the Marine Fisheries Commission.

*History Note:* Authority G.S. 113-134; 113-135; 113-182; 113-221.1; 113-221.2; 113-221.3; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1994; September 1, 1991;  
Temporary Amendment Eff. July 1, 1999;  
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Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

**15A NCAC 03H .0104 MAPS AND MARKING**

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Repealed Eff. April 1, 2011.

**SUBCHAPTER 03I – GENERAL RULES**

**SECTION .0100 – GENERAL RULES**

NOTE: 15A NCAC 03I .0101(1)(b) and (1)(h) are applicable consistent with Session Law 2015-241, Section 14.10A.

**15A NCAC 03I .0101 DEFINITIONS**

All definitions set out in G.S. 113, Subchapter IV and the following additional terms apply to this Chapter:

- (1) Enforcement and management terms:
  - (a) Commercial Quota. Total quantity of fish allocated for harvest by commercial fishing operations.
  - (b) Educational Institution. A college, university, or community college accredited by an accrediting agency recognized by the U.S. Department of Education; an Environmental Education Center certified by the N.C. Department of Environment and Natural Resources Office of Environmental Education and Public Affairs; or a zoo or aquarium certified by the Association of Zoos and Aquariums.
  - (c) Internal Coastal Waters or Internal Waters. All Coastal Fishing Waters except the Atlantic Ocean.
  - (d) Length of finfish.
    - (i) Curved fork length. A length determined by measuring along a line tracing the contour of the body from the tip of the upper jaw to the middle of the fork in the caudal (tail) fin.
    - (ii) Fork length. A length determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the middle of the fork in the caudal (tail) fin, except that fork length for billfish is measured from the tip of the lower jaw to the middle of the fork of the caudal (tail) fin.
    - (iii) Pectoral fin curved fork length. A length of a beheaded fish from the dorsal insertion of the pectoral fin to the fork of the tail measured along the contour of the body in a line that runs along the top of the pectoral fin and the top of the caudal keel.
    - (iv) Total length. A length determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the tip of the compressed caudal (tail) fin.
  - (e) Recreational Possession Limit. Restrictions on size, quantity, season, time period, area, means, and methods where take or possession is for a recreational purpose.
  - (f) Recreational Quota. Total quantity of fish allocated for harvest for a recreational purpose.
  - (g) Regular Closed Oyster Season. March 31 through October 15, unless amended by the Fisheries Director through proclamation authority.
  - (h) Scientific Institution. One of the following entities:
    - (i) An educational institution as defined in this Item;
    - (ii) A state or federal agency charged with the management of marine or estuarine resources; or
    - (iii) A professional organization or secondary school working under the direction of, or in compliance with mandates from, the entities listed in Subitems (h)(i) and (ii) of this Item.
  - (i) Seed Oyster Management Area. An open harvest area that, by reason of poor growth characteristics, predation rates, overcrowding or other factors, experiences poor utilization of oyster populations for direct harvest and sale to licensed dealers and is designated by the Marine Fisheries Commission as a source of seed for public and private oyster culture.
- (2) Fishing Activities:
  - (a) Aquaculture operation. An operation that produces artificially propagated stocks of marine or estuarine resources or obtains such stocks from permitted sources for the purpose of rearing in a controlled environment. A controlled environment provides and maintains throughout the rearing process one or more of the following:
    - (i) food;
    - (ii) predator protection;
    - (iii) salinity;
    - (iv) temperature controls; or
    - (v) water circulation,utilizing technology not found in the natural environment.

- (b) Attended. Being in a vessel, in the water or on the shore, and immediately available to work the gear and be within 100 yards of any gear in use by that person at all times. Attended does not include being in a building or structure.
  - (c) Blue Crab Shedding. The process whereby a blue crab emerges soft from its former hard exoskeleton. A shedding operation is any operation that holds peeler crabs in a controlled environment. A controlled environment provides and maintains throughout the shedding process one or more of the following:
    - (i) food;
    - (ii) predator protection;
    - (iii) salinity;
    - (iv) temperature controls; or
    - (v) water circulation,
 utilizing technology not found in the natural environment. A shedding operation does not include transporting pink or red-line peeler crabs to a permitted shedding operation.
  - (d) Depuration. Purification or the removal of adulteration from live oysters, clams, or mussels by any natural or artificially controlled means.
  - (e) Long Haul Operations. Fishing a seine towed between two vessels.
  - (f) Peeler Crab. A blue crab that has a soft shell developing under a hard shell and having a white, pink, or red-line or rim on the outer edge of the back fin or flipper.
  - (g) Possess. Any actual or constructive holding whether under claim of ownership or not.
  - (h) Recreational Purpose. A fishing activity that is not a commercial fishing operation as defined in G.S. 113-168.
  - (i) Shellfish marketing from leases and franchises. The harvest of oysters, clams, scallops, or mussels from privately held shellfish bottoms and lawful sale of those shellfish to the public at large or to a licensed shellfish dealer.
  - (j) Shellfish planting effort on leases and franchises. The process of obtaining authorized cultch materials, seed shellfish, and polluted shellfish stocks and the placement of those materials on privately held shellfish bottoms for increased shellfish production.
  - (k) Shellfish production on leases and franchises:
    - (i) The culture of oysters, clams, scallops, or mussels on shellfish leases and franchises from a sublegal harvest size to a marketable size.
    - (ii) The transplanting (relay) of oysters, clams, scallops, or mussels from areas closed due to pollution to shellfish leases and franchises in open waters and the natural cleansing of those shellfish.
  - (l) Swipe Net Operations. Fishing a seine towed by one vessel.
  - (m) Transport. Ship, carry, or cause to be carried or moved by public or private carrier by land, sea, or air.
  - (n) Use. Employ, set, operate, or permit to be operated or employed.
- (3) Gear:
- (a) Bunt Net. The last encircling net of a long haul or swipe net operation constructed of small mesh webbing. The bunt net is used to form a pen or pound from which the catch is dipped or bailed.
  - (b) Channel Net. A net used to take shrimp that is anchored or attached to the bottom at both ends or with one end anchored or attached to the bottom and the other end attached to a vessel.
  - (c) Commercial Fishing Equipment or Gear. All fishing equipment used in Coastal Fishing Waters except:
    - (i) Cast nets;
    - (ii) Collapsible crab traps, a trap used for taking crabs with the largest open dimension no larger than 18 inches and that by design is collapsed at all times when in the water, except when it is being retrieved from or lowered to the bottom;
    - (iii) Dip nets or scoops having a handle not more than eight feet in length and a hoop or frame to which the net is attached not exceeding 60 inches along the perimeter;
    - (iv) Gigs or other pointed implements that are propelled by hand, whether or not the implement remains in the hand;
    - (v) Hand operated rakes no more than 12 inches wide and weighing no more than six pounds and hand operated tongs;
    - (vi) Hook-and-line and bait-and-line equipment other than multiple-hook or multiple-bait trotline;
    - (vii) Landing nets used to assist in taking fish when the initial and primary method of taking is by the use of hook and line;

- (viii) Minnow traps when no more than two are in use;
  - (ix) Seines less than 30 feet in length;
  - (x) Spears, Hawaiian slings, or similar devices that propel pointed implements by mechanical means, including elastic tubing or bands, pressurized gas, or similar means.
- (d) Corkline. The support structure a net is attached to that is nearest to the water surface when in use. Corkline length is measured from the outer most mesh knot at one end of the corkline following along the line to the outer most mesh knot at the opposite end of the corkline.
  - (e) Dredge. A device towed by engine power consisting of a frame, tooth bar or smooth bar, and catchbag used in the harvest of oysters, clams, crabs, scallops, or conchs.
  - (f) Fixed or stationary net. A net anchored or staked to the bottom, or some structure attached to the bottom, at both ends of the net.
  - (g) Fyke Net. An entrapment net supported by a series of internal or external hoops or frames, with one or more lead or leaders that guide fish to the net mouth. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).
  - (h) Gill Net. A net set vertically in the water to capture fish by entanglement of the gills in its mesh as a result of net design, construction, mesh length, webbing diameter, or method in which it is used.
  - (i) Headrope. The support structure for the mesh or webbing of a trawl that is nearest to the water surface when in use. Headrope length is measured from the outer most mesh knot at one end of the headrope following along the line to the outer most mesh knot at the opposite end of the headrope.
  - (j) Hoop Net. An entrapment net supported by a series of internal or external hoops or frames. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap the fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).
  - (k) Lead. A mesh or webbing structure consisting of nylon, monofilament, plastic, wire, or similar material set vertically in the water and held in place by stakes or anchors to guide fish into an enclosure. Lead length is measured from the outer most end of the lead along the top or bottom line, whichever is longer, to the opposite end of the lead.
  - (l) Mechanical methods for clamming. Dredges, hydraulic clam dredges, stick rakes, and other rakes when towed by engine power, patent tongs, kicking with propellers or deflector plates with or without trawls, and any other method that utilizes mechanical means to harvest clams.
  - (m) Mechanical methods for oystering. Dredges, patent tongs, stick rakes, and other rakes when towed by engine power, and any other method that utilizes mechanical means to harvest oysters.
  - (n) Mesh Length. The distance from the inside of one knot to the outside of the opposite knot, when the net is stretched hand-tight in a manner that closes the mesh opening.
  - (o) Pound Net Set. A fish trap consisting of a holding pen, one or more enclosures, lead or leaders, and stakes or anchors used to support the trap. The holding pen, enclosures, and lead(s) are not conical, nor are they supported by hoops or frames.
  - (p) Purse Gill Nets. Any gill net used to encircle fish when the net is closed by the use of a purse line through rings located along the top or bottom line or elsewhere on such net.
  - (q) Seine. A net set vertically in the water and pulled by hand or power to capture fish by encirclement and confining fish within itself or against another net, the shore or bank as a result of net design, construction, mesh length, webbing diameter, or method in which it is used.
- (4) Fish habitat areas. The estuarine and marine areas that support juvenile and adult populations of fish species, as well as forage species utilized in the food chain. Fish habitats as used in this definition, are vital for portions of the entire life cycle, including the early growth and development of fish species. Fish habitats in all Coastal Fishing Waters, as determined through marine and estuarine survey sampling, include:
- (a) Anadromous fish nursery areas. Those areas in the riverine and estuarine systems utilized by post-larval and later juvenile anadromous fish.
  - (b) Anadromous fish spawning areas. Those areas where evidence of spawning of anadromous fish has been documented in Division sampling records through direct observation of spawning, capture of running ripe females, or capture of eggs or early larvae.
  - (c) Coral:
    - (i) Fire corals and hydrocorals (Class Hydrozoa);

- (ii) Stony corals and black corals (Class Anthozoa, Subclass Scleractinia); or
- (iii) Octocorals; Gorgonian corals (Class Anthozoa, Subclass Octocorallia), which include sea fans (*Gorgonia* sp.), sea whips (*Leptogorgia* sp. and *Lophogorgia* sp.), and sea pansies (*Renilla* sp.).
- (d) Intertidal Oyster Bed. A formation, regardless of size or shape, formed of shell and live oysters of varying density.
- (e) Live rock. Living marine organisms or an assemblage thereof attached to a hard substrate, excluding mollusk shells, but including dead coral or rock. Living marine organisms associated with hard bottoms, banks, reefs, and live rock include:
  - (i) Coralline algae (Division Rhodophyta);
  - (ii) *Acetabularia* sp., mermaid's fan and cups (*Udotea* sp.), watercress (*Halimeda* sp.), green feather, green grape algae (*Caulerpa* sp.) (Division Chlorophyta);
  - (iii) *Sargassum* sp., *Dictyopteris* sp., *Zonaria* sp. (Division Phaeophyta);
  - (iv) Sponges (Phylum Porifera);
  - (v) Hard and soft corals, sea anemones (Phylum Cnidaria), including fire corals (Class Hydrozoa), and Gorgonians, whip corals, sea pansies, anemones, *Solenastrea* (Class Anthozoa);
  - (vi) Bryozoans (Phylum Bryozoa);
  - (vii) Tube worms (Phylum Annelida), fan worms (Sabellidae), feather duster and Christmas tree worms (Serpulidae), and sand castle worms (Sabellaridae);
  - (viii) Mussel banks (Phylum Mollusca: Gastropoda); and
  - (ix) Acorn barnacles (Arthropoda: Crustacea: Semibalanus sp.).
- (f) Nursery areas. Areas that for reasons such as food, cover, bottom type, salinity, temperature, and other factors, young finfish and crustaceans spend the major portion of their initial growing season. Primary nursery areas are those areas in the estuarine system where initial post-larval development takes place. These are areas where populations are uniformly early juveniles. Secondary nursery areas are those areas in the estuarine system where later juvenile development takes place. Populations are composed of developing sub-adults of similar size that have migrated from an upstream primary nursery area to the secondary nursery area located in the middle portion of the estuarine system.
- (g) Shellfish producing habitats. Historic or existing areas that shellfish, such as clams, oysters, scallops, mussels, and whelks use to reproduce and survive because of such favorable conditions as bottom type, salinity, currents, cover, and cultch. Included are those shellfish producing areas closed to shellfish harvest due to pollution.
- (h) Strategic Habitat Areas. Locations of individual fish habitats or systems of habitats that provide exceptional habitat functions or that are particularly at risk due to imminent threats, vulnerability, or rarity.
- (i) Submerged aquatic vegetation (SAV) habitat. Submerged lands that:
  - (i) are vegetated with one or more species of submerged aquatic vegetation including bushy pondweed or southern naiad (*Najas guadalupensis*), coontail (*Ceratophyllum demersum*), eelgrass (*Zostera marina*), horned pondweed (*Zannichellia palustris*), naiads (*Najas* spp.), redhead grass (*Potamogeton perfoliatus*), sago pondweed (*Stuckenia pectinata*, formerly *Potamogeton pectinatus*), shoalgrass (*Halodule wrightii*), slender pondweed (*Potamogeton pusillus*), water stargrass (*Heteranthera dubia*), water starwort (*Callitriche heterophylla*), waterweeds (*Elodea* spp.), widgeongrass (*Ruppia maritima*), and wild celery (*Vallisneria americana*). These areas may be identified by the presence of above-ground leaves, below-ground rhizomes, or reproductive structures associated with one or more SAV species and include the sediment within these areas; or
  - (ii) have been vegetated by one or more of the species identified in Sub-item (4)(i)(i) of this Rule within the past 10 annual growing seasons and that meet the average physical requirements of water depth (six feet or less), average light availability (secchi depth of one foot or more), and limited wave exposure that characterize the environment suitable for growth of SAV. The past presence of SAV may be demonstrated by aerial photography, SAV survey, map, or other documentation. An extension of the past 10 annual growing seasons criteria may be considered when average environmental conditions are altered by drought, rainfall, or storm force winds.

This habitat occurs in both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas. In defining SAV habitat, the Marine Fisheries Commission recognizes the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et. seq.) and does not intend the

submerged aquatic vegetation definition, or this Rule or Rules 03K .0304 and .0404, to apply to or conflict with the non-development control activities authorized by that Act.

- (5) Licenses, permits, leases and franchises, and record keeping:
- (a) Assignment. Temporary transferal to another person of privileges under a license for which assignment is permitted. The person assigning the license delegates the privileges permitted under the license to be exercised by the assignee, but retains the power to revoke the assignment at any time, and is still the responsible party for the license.
  - (b) Designee. Any person who is under the direct control of the permittee or who is employed by or under contract to the permittee for the purposes authorized by the permit.
  - (c) For Hire Vessel. As defined by G.S. 113-174, when the vessel is fishing in state waters or when the vessel originates from or returns to a North Carolina port.
  - (d) Holder. A person who has been lawfully issued in his or her name a license, permit, franchise, lease, or assignment.
  - (e) Land:
    - (i) For commercial fishing operations, when fish reach the shore or a structure connected to the shore.
    - (ii) For purposes of trip tickets, when fish reach a licensed seafood dealer, or where the fisherman is the dealer, when fish reach the shore or a structure connected to the shore.
    - (iii) For recreational fishing operations, when fish are retained in possession by the fisherman.
  - (f) Licensee. Any person holding a valid license from the Department to take or deal in marine fisheries resources.
  - (g) Logbook. Paper forms provided by the Division and electronic data files generated from software provided by the Division for the reporting of fisheries statistics by persons engaged in commercial or recreational fishing or for-hire operators.
  - (h) Master. Captain of a vessel or one who commands and has control, authority, or power over a vessel.
  - (i) New fish dealer. Any fish dealer making application for a fish dealer license who did not possess a valid dealer license for the previous license year in that name. For purposes of license issuance, adding new categories to an existing fish dealers license does not constitute a new dealer.
  - (j) Office of the Division. Physical locations of the Division conducting license and permit transactions in Wilmington, Washington, Morehead City, Roanoke Island, and Elizabeth City, North Carolina. Other businesses or entities designated by the Secretary to issue Recreational Commercial Gear Licenses or Coastal Recreational Fishing Licenses are not considered Offices of the Division.
  - (k) Responsible party. Person who coordinates, supervises, or otherwise directs operations of a business entity, such as a corporate officer or executive level supervisor of business operations, and the person responsible for use of the issued license in compliance with applicable statutes and rules.
  - (l) Tournament Organizer. The person who coordinates, supervises, or otherwise directs a recreational fishing tournament and is the holder of the Recreational Fishing Tournament License.
  - (m) Transaction. Act of doing business such that fish are sold, offered for sale, exchanged, bartered, distributed, or landed.
  - (n) Transfer. Permanent transferal to another person of privileges under a license for which transfer is permitted. The person transferring the license retains no rights or interest under the license transferred.
  - (o) Trip Ticket. Paper forms provided by the Division and electronic data files generated from software provided by the Division for the reporting of fisheries statistics by licensed fish dealers.

*History Note: Authority G.S. 113-134; 113-174; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1995; March 1, 1994; October 1, 1993; July 1, 1993;  
Recodified from 15A NCAC 03I .0001 Eff. December 17, 1996;  
Amended Eff. April 1, 1999; August 1, 1998; April 1, 1997;  
Temporary Amendment Eff. May 1, 2000; August 1, 1999; July 1, 1999;  
Amended Eff. August 1, 2000;  
Temporary Amendment Eff. August 1, 2000;*

*Amended Eff. May 1, 2015; April 1, 2014; April 1, 2011; April 1, 2009; October 1, 2008; December 1, 2007; December 1, 2006; September 1, 2005; April 1, 2003; April 1, 2001.*

### **15A NCAC 03I .0102 TEMPORARY SUSPENSION OF RULES**

The Fisheries Director is authorized to suspend, in whole or in part, until the next meeting of the Marine Fisheries Commission, or for a lesser period, the operation of any rule of the Marine Fisheries Commission regarding coastal fisheries which may be affected by variable conditions.

*History Note: Authority G.S. 113-134; 143B-289.52;  
Eff. January 1, 1991;  
Recodified from 15A NCAC 3I .0002 Eff. December 17, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

### **15A NCAC 03I .0103 CONFISCATION AND DISPOSITION**

The Fisheries Director is directed to establish administrative procedures for the summary disposition of confiscated live or perishable fish, not inconsistent with the provisions of G.S. 113-137(d). In so doing, he may require inspectors to obtain and file receipts for any fish so disposed of.

*History Note: Authority G.S. 113-134; 113-137; 113-221; 143B-289.52;  
Eff. January 1, 1991;  
Recodified from 15A NCAC 3I .0003 Eff. December 17, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

NOTE: 15A NCAC 03I .0104 is subject to change consistent with Session Law 2017-190, Sections 3.1.(a), (b), (d), and (e) and Session Law 2018-114, Section 17.

### **15A NCAC 03I .0104 INTRODUCE, TRANSFER OR HOLD IMPORTED MARINE AND ESTUARINE ORGANISMS**

(a) In order to protect the marine and estuarine resources of North Carolina from unacceptable risks from predators, pests, parasites, and disease, it is unlawful, without first obtaining a permit from the Fisheries Director or without obtaining live marine and estuarine organisms from a permit holder:

- (1) To place into the coastal fishing waters of the state live marine and estuarine organisms not native to the state. For the purpose of this Rule, this action is an introduction.
- (2) To place into the coastal fishing waters of the state live marine and estuarine organisms which are native but which originated outside the State's boundaries. For the purpose of this Rule, this action is a transfer.
- (3) To hold or maintain any live marine or estuarine organism imported into the state in a quarantine or isolation system for live bait or use in an aquaculture operation as defined in 15A NCAC 03I .0101.
- (4) To sell for bait any live marine or estuarine organism imported into the state.

(b) Any person desiring to obtain a Permit to Introduce, Transfer or Hold Imported Marine and Estuarine Organisms must make written application to the Division of Marine Fisheries, P.O. Box 769, Morehead City, NC 28557-0769. In order for the Fisheries Director to determine the level of risk to any native marine resource or the environment, the applicant shall provide:

- (1) A certification from a pathologist that a sample of 60 organisms from proposed shipments are disease free or a certification from a governmental veterinary service that the organisms to be shipped were produced in an area or facility free of diseases posing a risk to North Carolina's estuarine resources, or their environment, as determined by the Fisheries Director; and
- (2) A certification from a biologist or veterinarian that macroscopic and microscopic examination indicates the shipment contains only those species identified on the permit application.

(c) The Fisheries Director shall require disinfection, quarantine or destruction of organisms and transfer materials as a condition of the permit, upon finding the importation poses a risk to North Carolina's estuarine resources, or their environment.

(d) The Fisheries Director may hold public meetings prior to granting permits for activities specified in Paragraph (a) of this Rule to gather information concerning risks to native marine resources or the environment.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. November 1, 1991;  
Recodified from 15A NCAC 3I .0004 Eff. December 17, 1996;  
Amended Eff. April 1, 2009.*

**15A NCAC 03I .0105 LEAVING DEVICES UNATTENDED**

- (a) It is unlawful to leave stakes, anchors, nets, buoys, or floating devices in any coastal fishing waters when such devices are not being employed in fishing operations except as otherwise provided by rule or General Statute.
- (b) It is unlawful to leave pots in any coastal fishing waters for more than five consecutive days, when such pots are not being employed in fishing operations, except upon a timely and sufficient showing of hardship as defined in Subparagraph (b)(2) of this Rule or as otherwise provided by General Statute.
- (1) Agents of the Fisheries Director may tag pots with a device approved by the Fisheries Director to aid and assist in the investigation and identification of unattended pots. Any such device attached to a pot by agents of the Fisheries Director must be removed by the individual utilizing the pot within five days of attachment in order to demonstrate that the pot is being employed in fishing operations.
  - (2) For the purposes of Paragraph (b) of this Rule only, a timely and sufficient showing of hardship in a commercial fishing operation shall be written notice given to the Fisheries Director that a mechanical breakdown of the owner's vessel(s) currently registered with the Division of Marine Fisheries under G.S. 113-168.6, or the death, illness or incapacity of the owner of the pot or his immediate family, as defined in G.S. 113-168, prevented or will prevent employing such pots in fishing operations more than five consecutive days. The notice, specifying the time needed because of hardship, shall be received by the Fisheries Director before any pot is left in coastal fishing waters for five consecutive days without being employed in fishing operations, and shall state, in addition to the following, the number and specific location of the pots, and the date on which the pots will be employed in fishing operations or removed from coastal fishing waters:
    - (A) in case of mechanical breakdown, the notice shall state the commercial fishing vessel registration number, owner's N.C. motor boat registration number of the disabled vessel, date disabled, arrangements being made to repair the vessel or a copy of the work order showing the name, address and phone number of the repair facility; or
    - (B) in case of the death, illness or incapacity of the owner of the pot or his immediate family, the notice shall state the name of the owner or immediate family member, the date of death, the date and nature of the illness or incapacity. The Fisheries Director may require a doctor's verification of the illness or incapacity.
  - (3) The Fisheries Director may, by proclamation, modify the five day requirement, if necessary due to hurricanes, severe weather or other variable conditions. Failure to employ in fishing operations or remove from coastal fishing waters all pots for which notice of hardship is received under this Rule within 14 days of the expiration of the hardship shall be violation of this Rule.
- (c) It is unlawful to set or have any fishing equipment in coastal fishing waters in violation of this Section or which contains edible species of fish unfit for human consumption.

*History Note: Authority G.S. 113-134; 113-137; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1996;  
Recodified from 15A NCAC 03I .0005 Eff. December 17, 1996;  
Amended Eff. April 1, 1997;  
Temporary Amendment Eff. July 1, 1999;  
Amended Eff. September 1, 2005; August 1, 2000.*

**15A NCAC 03I .0106 SCIENTIFIC, EDUCATIONAL, OR OFFICIAL COLLECTING PERMIT**

*History Note: Authority G.S. 113-134; 113-169.3; 113-182; 113-261; 143B-289.52;  
Eff. January 1, 1991;  
Recodified from 15A NCAC 3I .0006 Eff. December 17, 1996;  
Temporary Amendment Eff. July 1, 1999;  
Amended Eff. August 1, 1999;  
Temporary Repeal Eff. September 1, 2000;  
Repealed Eff. August 1, 2002.*

**15A NCAC 03I .0107 ENDANGERED OR THREATENED SPECIES**

(a) Pursuant to a cooperative agreement entered into on February 5, 1979, by the Department of Environment and Natural Resources, the Marine Fisheries Commission, and the Wildlife Resources Commission, the Wildlife Resources Commission will exercise regulatory jurisdiction over any species of sea turtle, and their eggs and nests, consistent with designation of such species as endangered or threatened by the U.S. Fish and Wildlife Service. As provided by said agreement, the law enforcement officers of both the Marine Fisheries Division and the Wildlife Resources Commission

have jurisdiction to enforce any State laws and rules, including those contained in 15A NCAC 10I, relating to endangered or threatened species of sea turtles and their eggs and nests.

(b) The Fisheries Director may close or restrict by proclamation any coastal waters with respect to taking or attempting to take any or all kinds of marine resources when the method (equipment) used is a serious threat to an endangered or threatened species listed pursuant to 16 USC 1533(c). Copies of this list may be obtained from the Division of Marine Fisheries, PO Box 769, 3441 Arendell St., Morehead City, North Carolina 28557-0769.

(c) It is unlawful to use any commercial fishing equipment in the sea turtle sanctuary located in the Atlantic Ocean adjacent to Onslow County as described in 15A NCAC 03R .0101 from June 1 through August 31, except that the Fisheries Director may, by proclamation, modify the sanctuary within the described area and vary implementation between specified dates for the protection of the sea turtle population.

*History Note: Authority G.S. 113-132; 113-134; 113-134.1; 113-182; 113-189; 143B-289.52; Eff. January 1, 1991; Recodified from 15A NCAC 3I .0007 Eff. December 17, 1996; Amended Eff. July 1, 1999; May 1, 1997; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

### **15A NCAC 03I .0108 OCEAN FISHING PIERS**

(a) It is unlawful to fish with nets of any kind or from boats within the zone adjacent to any ocean fishing pier meeting the requirements of G.S. 113-185(a), if such zone is marked by one of the following methods or a combination of methods:

- (1) Yellow range poles at least three inches in diameter and extending not less than six feet above the surface of the ground, and which are parallel to the pier and identified by signs with the name of the pier printed in letters at least three inches high; or
- (2) Buoys, which shall be yellow in color and not less than nine inches in diameter and extend no less than three feet above the surface of the water.

(b) It is unlawful to define a zone that extends more than 750 feet from the pier. When a marking system defines a smaller area than authorized, the limitations on fishing activities shall apply within the marked zone. When the marking system does not include buoys placed seaward of the pier's offshore end, the zone protected under G.S. 113-185 shall be limited to the areas parallel to the sides of the pier and shall include no area seaward of the offshore end of the pier.

(c) Owners of qualifying ocean piers shall be responsible for complying with all applicable local, state and federal regulations for marking systems.

*History Note: Authority G.S. 113-134; 113-181; 113-182; 143B-289.52; Eff. January 1, 1991; Recodified from 15A NCAC 3I .0008 Eff. December 17, 1996.*

### **15A NCAC 03I .0109 ARTIFICIAL REEFS AND RESEARCH SANCTUARIES**

(a) The Fisheries Director may, by proclamation, prohibit or restrict the taking of fish and the use of any equipment in and around any artificial reef or research sanctuary. Any closure or restriction is subject to the following conditions:

- (1) Artificial reefs shall not be closed or restricted beyond 500 yards in the Atlantic Ocean or 250 yards in internal coastal waters. Artificial reefs shall be marked as near center as feasible by one readily identifiable official buoy and distances for closures or restrictions shall be measured from such buoy.
- (2) Any closure or restriction shall be for no more than one year, subject to renewal in the discretion of the Fisheries Director.
- (3) The economic effect of the closure or restriction on fishing interests with respect to the size and location of the area and the nature of the equipment affected shall be considered before such closure is made and findings shall be made in writing which findings shall be available for public inspection at the office of Division of Marine Fisheries in Morehead City.

(b) It is unlawful to engage in any fishing activity, use any equipment, or conduct any other operation which has been prohibited by proclamation issued under this authority.

*History Note: Authority G.S. 113-134; 113-181; 113-182; 143B-289.52; Eff. January 1, 1991; Recodified from 15A NCAC 3I .0009 Eff. December 17, 1996.*

### **15A NCAC 03I .0110 MILITARY DANGER ZONES AND RESTRICTED AREAS**

(a) Pursuant to Title 33 United States Code Section 3, the United States Army Corps of Engineers has adopted regulations which restrict access to and activities within certain areas of coastal and inland fishing waters. Federal Rules codified at 33 CFR 334.410 through 334.450 designate danger zones and restricted areas, within North Carolina coastal waters. These areas are designated in 15A NCAC 03R .0102. Only the applicable military commanders listed in the federal regulations

have authority to authorize navigation or fishing access to these designated areas. All military danger zone and restricted area closures shall be enforced by the appropriate federal agency. If reasonable use of these areas by the food fishing industry is allowed or a permit process implemented by the appropriate military authorities to allow access in accordance with 33 U.S.C. Section 3 or the appropriate federal authority allows access to danger zones or restricted areas, all applicable fisheries statutes, N.C. Marine Fisheries Commission rules, and proclamations issued by the Fisheries Director, other than those allowing access, shall apply within these areas.

(b) The military danger zones and restricted areas are shown on navigational charts and specifically described in the Coastal Pilot and the Code of Federal Regulations (CFR). Copies of the CFR provisions are available on the internet at [www.access.gpo.gov/nara/cfr/index.html](http://www.access.gpo.gov/nara/cfr/index.html) or at the Division of Marine Fisheries, P.O. Box 769, Morehead City, NC 28557. These areas are also designated in 15A NCAC 03R .0102.

*History Note:* Authority G.S. 113-134; 113-182; 113-228; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1994;  
Recodified from 15A NCAC 3I .0010 Eff. December 17, 1996;  
Amended Eff. August 1, 2004; May 1, 1997;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **15A NCAC 03I .0111 PERMITS FOR AQUACULTURE OPERATIONS**

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. October 1, 1992; September 1, 1991;  
Recodified from 15A NCAC 3I .0011 Eff. December 17, 1996;  
Temporary Repeal Eff. September 1, 2000;  
Repealed Eff. August 1, 2002.

#### **15A NCAC 03I .0112 SPECIAL PERMIT REQUIRED FOR SPECIFIC MANAGEMENT PURPOSES**

*History Note:* Authority G.S. 113-134; 113-170.3; 113-182; 113-221; 143B-289.52;  
Eff. January 1, 1991;  
Recodified from 15A NCAC 3I .0012 Eff. December 17, 1996;  
Temporary Repeal Eff. May 1, 2000;  
Repealed Eff. April 1, 2001.

#### **15A NCAC 03I .0113 BIOLOGICAL SAMPLING**

It is unlawful for any licensee under Chapter 113, Subchapter IV, of the General Statutes to refuse to allow the Fisheries Director or his agents to obtain biological data, harvest information, or other statistical data necessary or useful to the conservation and management of marine and estuarine resources from fish in the licensee's possession. Such data shall include, but is not limited to, species identification, length, weight, age, sex, number, area of catch, harvest method, and quantity of catch.

*History Note:* Authority G.S. 113-134; 113-170.3; 113-170.4; 113-174.1; 113-182;  
Eff. October 1, 1992;  
Recodified from 15A NCAC 3I .0013 Eff. December 17, 1996.

#### **15A NCAC 03I .0114 RECORDKEEPING REQUIREMENTS**

(a) It is unlawful for a fish dealer:

- (1) To fail to complete accurately and legibly all mandatory items on the North Carolina trip ticket for each transaction and submit the trip ticket in accordance with G.S. 113-168.2;
- (2) To fail to provide to the Division a Trip Ticket Submittal/Transaction form indicating the number of transactions that occurred during the previous month;
- (3) To fail to make paper copies of trip tickets available at the dealer location for inspection by Marine Patrol inspectors;
- (4) To fail to submit trip tickets to the Division via electronic file transfer if that dealer reported an annual average of greater than 50,000 pounds of finfish for the previous three calendar years. Dealers subject to the electronic reporting requirement shall be notified by the Division via certified mail and within 120 days of receipt shall:
  - (A) Initiate electronic file transfer of trip tickets; and

- (B) Continue to report by electronic file transfer until the dealer no longer holds a fish dealer license with finfish or consolidated categories;
  - (5) To fail to use software or web-based utilities authorized by the Division when reporting electronically. Electronic submittals shall meet all other recordkeeping requirements in accordance with G.S. 113-168.2; and
  - (6) To fail to keep all trip tickets and all supporting documentation for each transaction including receipts, checks, bills of lading, records, electronic files and accounts for a period of not less than three years.
- (b) It is unlawful for a seller licensed under G.S. 113, Article 14A or donor to fail to provide to the fish dealer, at the time of transaction, the following:
- (1) A current and valid license or permit to sell the type of fish being offered and if a vessel is used, the commercial fishing vessel registration; and
  - (2) Complete and accurate information on harvest method and area of catch and other information required by the Division, in accordance with G.S. 113-168.2 and 113-169.3.
- (c) It is unlawful to transport fish without having ready at hand for inspection a bill of consignment, bill of lading, or other shipping documentation provided by the shipping dealer showing thereon the name of the consignee, name of the shipper, the date of the shipment, and the quantity of each species of fish shipped. In the event the fisherman taking the fish is also a dealer and ships from the point of landing, all shipping records shall be recorded at the point of landing. Fishermen who transport their fish directly to dealers are exempt from this Paragraph of this Rule.
- (d) It is unlawful to export fish landed in the State in a commercial fishing operation without a North Carolina licensed fish dealer completing all the record keeping requirements in G.S. 113-168.2(i).
- (e) It is unlawful to offer for sale fish purchased from a licensed fish dealer without having ready at hand for inspection by Marine Patrol inspectors or other agent of the Fisheries Director written documentation of purchase showing thereon the name of the licensed dealer, name of the purchaser, date of the purchase, and the quantity of each species purchased.
- (f) It is unlawful for a holder of a Fish Dealer's License to have fish in possession at a licensed location without written documentation from a licensed fish dealer or a completed North Carolina Marine Fisheries Trip Ticket to show the quantity and origin of all fish.

*History Note: Authority G.S. 113-134; 113-168.2; 113-168.3; 113-169.3; 113-170; 113-170.3; 113-170.4; 143B-289.52; Eff. March 1, 1994; Recodified from 15A NCAC 3I .0014 Eff. December 17, 1996; Temporary Amendment Eff. July 1, 1999; Amended Eff. June 1, 2013; August 1, 2000.*

#### **15A NCAC 03I .0115 REPLACEMENT COSTS OF MARINE AND ESTUARINE RESOURCES - FISH**

- (a) Fish, as used throughout this Rule, is defined in G.S. 113-129(7).
- (b) Replacement Costs Distinguished. As it applies to fishes the term "replacement costs" must be distinguished from the "value" of the fish concerned. Except in cases where fish may lawfully be sold on the open market, as with commercially reared species, the monetary value of the specimens cannot be determined easily. The degree of special interest or concern in a particular species by the public, including not only anglers, but conservationists and those to whom the value of fishes is primarily aesthetic, cannot be measured in dollar amounts. The average cost of fish legally taken by anglers including travel and lodging, fishing equipment and bait, excise taxes on equipment, licenses and other fees, may fairly be estimated. This too, however, is a reflection on the value of existing fishery resources rather than a measure of the cost of their replacement. Thus, the relative value of fish species shall be considered only as they may bear on the necessity or desirability of actual replacement.
- (c) Determining replacement costs. The replacement costs of species of fishes that have been taken, injured, removed, harmfully altered, damaged, or destroyed shall be determined as follows. The weight of each undersized fish shall be adjusted to the average weight of a fish on the minimum legal size established by the Marine Fisheries Commission for that species. The replacement cost shall be calculated based on the greater of either:
- (1) the cost of propagating and rearing the species in a hatchery and the cost of transporting them to areas of suitable habitat; or
  - (2) the average annual ex-vessel value of fish species per pound.
- (d) The cost of propagating, rearing and transporting the fish and the average annual ex-vessel value of fish species per pound shall be taken from the Division of Marine Fisheries annual statistical report for the calendar year next preceding the year in which the offense was committed. When the cost of propagating, rearing or transporting a particular species is not available, replacement costs shall be calculated based upon the average annual ex-vessel value of the species. When neither the cost of propagating, rearing or transporting a particular species, nor the average annual ex-vessel value of the species is available, replacement costs shall be determined according to the following factors:
- (1) whether the species is classified as endangered or threatened;
  - (2) the relative frequency of occurrence of the species in the state;

- (3) the extent of existing habitat suitable for the species within the state;
- (4) the dependency of the species on unique habitat requirements;
- (5) the cost of improving and maintaining suitable habitat for the species;
- (6) the cost of capturing the species in areas of adequate populations and transplanting them to areas of suitable habitat with low populations;
- (7) the availability of the species and the cost of acquisition for restocking purposes;
- (8) the cost of those species which, when released, have a probability of survival in the wild;
- (9) the ratio between the natural life expectancy of the species and the period of its probable survival when, having been reared in a hatchery, it is released to the wild.

(e) Replacement costs will be assessed for the following fish:

- (1) Alewife (River Herring);
- (2) Amberjacks;
- (3) Anglerfish (Goosefish);
- (4) Bluefish;
- (5) Bonito;
- (6) Butterfish;
- (7) Carp;
- (8) Catfishes;
- (9) Cobia;
- (10) Croaker, Atlantic;
- (11) Cutlassfish, Atlantic;
- (12) Dolphinfish;
- (13) Drum, Black;
- (14) Drum, Red (Channel Bass);
- (15) Eels;
- (16) Flounders;
- (17) Flounders, Fluke;
- (18) Garfish;
- (19) Gizzard Shad;
- (20) Groupers;
- (21) Grunts;
- (22) Hakes;
- (23) Harvestfish;
- (24) Herring, Thread;
- (25) Hickory Shad;
- (26) Hogfish;
- (27) Jacks;
- (28) Kingfishes (Sea Mullet);
- (29) Mackerel, Atlantic;
- (30) Mackerel, King;
- (31) Mackerel, Spanish;
- (32) Menhaden, Atlantic;
- (33) Mullets;
- (34) Perch, White;
- (35) Perch, Yellow;
- (36) Pigfish;
- (37) Pompano;
- (38) Porgies;
- (39) Scup;
- (40) Sea Basses;
- (41) Seatrout, Spotted;
- (42) Shad (American);
- (43) Sharks;
- (44) Sharks, Dogfish;
- (45) Sheepshead;
- (46) Skippers;
- (47) Snappers;
- (48) Spadefish, Atlantic;
- (49) Spot;
- (50) Striped Bass;

- (51) Swellfishes (Puffers);
- (52) Swordfish;
- (53) Tilefish;
- (54) Triggerfish;
- (55) Tuna;
- (56) Wahoo;
- (57) Weakfish (Grey Trout);
- (58) Whiting;
- (59) Wreckfish;
- (60) Unclassified Fish;
- (61) Brown Shrimp;
- (62) Pink Shrimp;
- (63) Rock Shrimp;
- (64) White Shrimp;
- (65) Unclassified Shrimp;
- (66) Clam, Hard;
- (67) Conchs;
- (68) Crabs, Blue, Hard;
- (69) Crabs, Blue, Soft;
- (70) Octopus;
- (71) Oyster;
- (72) Scallop, Bay;
- (73) Scallop, Calico;
- (74) Scallop, Sea;
- (75) Squid;
- (76) Unclassified Shellfish.

(f) Cost of Investigations:

- (1) Factors to be Considered. Upon any investigation required as provided by G.S. 143-215.3(a)(7) or by court order for the purpose of determining the cost of replacement of marine and estuarine resources which have been killed, taken, injured, removed, harmfully altered, damaged, or destroyed, the factors to be considered in determining the cost of the investigation are as follows:
  - (A) the time expended by the employee or employees making the investigation, including travel time between the place of usual employment and the site of the investigation, and the time required in formulating and rendering the report;
  - (B) the cost of service to the state of each employee concerned, including annual salary, hospitalization insurance, and the state's contribution to social security taxes and to the applicable retirement system;
  - (C) subsistence of the investigating personnel, including meals, reasonable gratuities, and lodging away from home, when required;
  - (D) the cost of all necessary transportation;
  - (E) the use or rental of boats and motors, when required;
  - (F) the cost of cleaning or repairing any uniform or clothing that may be damaged, soiled or contaminated by reason of completing the investigation;
  - (G) the cost of necessary telephonic communications;
  - (H) any other expense directly related to and necessitated by the investigation.
- (2) Computation of Costs. In assessing the cost of time expended in completing the investigation, the time expended by each person required to take part in the investigation shall be recorded in hours, the value of which shall be computed according to the ratio between the annual cost of service of the employee and his total annual working hours (2087 hours reduced by holidays, annual leave entitlement, and earned sick leave). Other costs shall be assessed as follows:
  - (A) subsistence: the per diem amount for meals, reasonable gratuities, and lodging away from home, not to exceed the then current maximum per diem for state employees;
  - (B) transportation: total mileage by motor vehicle multiplied by:
    - (i) the then current rate per mile for travel by state-owned vehicle; or
    - (ii) the then current rate per mile for travel by privately owned vehicle, as applicable;
  - (C) boat and motor: ten dollars (\$10.00) per hour;
  - (D) uniform and clothing cleaning and repair: actual cost;
  - (E) telephonic communications: actual cost;
  - (F) other expenses: actual cost.

*History Note:* Authority G.S. 113-134; 113-267; 143B-289.52;  
Eff. March 1, 1995;  
Recodified from 15A NCAC 3I .0015 Eff. December 17, 1996.

**15A NCAC 03I .0116 CORAL AND LIVE ROCK**

- (a) It is unlawful to harvest or possess aboard a vessel coral or live rock as defined in 15A NCAC 03I .0101.
- (b) Live rock and coral shall be returned to the waters where taken.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. March 1, 1995;  
Recodified from 15A NCAC 3I .0016 Eff. December 17, 1996;  
Amended Eff. April 1, 2011; May 1, 1997;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

**15A NCAC 03I .0117 FISHERY RESOURCE GRANT PROGRAM**

*History Note:* Filed as a Temporary Adoption Eff. September 26, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Authority G.S. 113-134; 113-200; 143B-289.52; 1993 (Regular Session 1994), c. 769, s. 27.17;  
Eff. February 1, 1995;  
Recodified from 15A NCAC 3I .0017 Eff. December 17, 1996;  
Temporary Amendment Eff. April 20, 1997;  
Amended Eff. August 1, 1998;  
Repealed Eff. January 1, 2000.

**15A NCAC 03I .0118 DISPOSAL OF EVIDENCE**

It is unlawful for any person to dispose of fish or parts thereof, or other matter in any manner, after any communication or signal from an inspector, or after the approach of an inspector or an enforcement vessel.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. March 1, 1996;  
Recodified from 15A NCAC 3I .0018 Eff. December 17, 1996.

**15A NCAC 03I .0119 PROHIBITED FISHING ACTIVITY DUE TO PUBLIC HEALTH OR SAFETY**

- (a) It is unlawful to possess, sell, or take fish by any method or use any fishing equipment in areas of coastal waters that are closed to fishing by the Marine Fisheries Commission because the areas are determined to pose a public health or safety risk by the State Health Director.
- (b) After prior consent of the Marine Fisheries Commission the Fisheries Director may, by proclamation, prohibit or restrict the taking of fish by any method and the use of any fishing equipment in areas of coastal waters that are the subject of warnings or advisories by the State Health Director concerned with dangers or risks to public health or safety. Criteria to be considered for deciding when closures are necessary and when to reopen areas are as follows:

- (1) *Pfiesteria piscicida* outbreaks:
  - (A) Closing fisheries:
    - (i) Kills: Active fish kills observed for six continuous days.
    - (ii) Disease: Disease event observed, with fish showing bleeding ulcerations for six continuous days.
    - (iii) *Pfiesteria piscicida*: Toxic flagellated and amoeboid stages at concentrations of greater than 300 cells per ml in kill areas while fish are dying (if laboratory capability is available). [Note: Basis -more than 100 confirming bioassays of *Pfiesteria* toxicity, together with supporting field data].
  - (B) Opening Fisheries:
    - (i) Kills: No active fish kills observed and no documented schools of fish in apparent distress for six continuous days.
    - (ii) Disease: No disease event of fish showing bleeding ulcerations of six continuous days.
    - (iii) *Pfiesteria piscicida*: Toxic flagellated and amoeboid stages at concentrations of less than 200 cells per ml following a kill/disease event [if laboratory capability is available]. [Note: Basis - more than 100 confirming bioassays of *Pfiesteria* toxicity, together with supporting field data].
    - (iv) Biological sampling indicating that the kill or disease event has passed, interpreted through the following information:

- (I) Sampling of affecting area or established monitoring sites.
  - (II) Observations of catch by fishing gear that may be set or used in the area.
  - (III) Species diversity and abundance that has returned to normal levels for the area and season when compared to historic data, if available.
- (2) Other Environmental Events:
- (A) Closing fisheries: State Health Director determines there is a public health or safety risk.
  - (B) Opening fisheries: State Health Director determines a public health or safety risk no longer exists.

*History Note:* Authority G.S. 113-134; 113-182; 113-221; 143B-289.4;  
 Temporary Adoption Eff. February 1, 1996;  
 Eff. June 1, 1996;  
 Recodified from 15A NCAC 3I .0019 Eff. December 17, 1996;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

**15A NCAC 03I .0120 POSSESSION OR TRANSPORTATION LIMITS THROUGH STATE WATERS;  
 SALE OF NATIVE SPECIES**

- (a) It shall be unlawful to possess or transport through State coastal fishing waters any species of fish that is subject to State season, size, or harvest restrictions, regardless whether the species was taken in State or federal waters, unless all fish taken are in compliance with the restrictions for the waterbody or area being fished. If State season, size, or harvest restrictions differ from comparable restrictions pursuant to a fishery management plan adopted by the Atlantic States Marine Fisheries Commission or pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, or if there are no corresponding federal regulations, the State restrictions shall apply during such periods of possession or transportation.
- (b) It shall be unlawful to import native species of fish for sale in the State that do not meet size limits, except as provided in 15A NCAC 03K .0202, .0207, .0305, and 03M .0503.

*History Note:* Authority G.S. 113-134; 113-170; 113-170.4; 113-170.5; 113-182; 113-182.1; 113-252; 143B-289.52;  
 Temporary Adoption Eff. July 1, 1999;  
 Eff. August 1, 2000;  
 Temporary Amendment Eff. October 1, 2001;  
 Amended Eff. September 1, 2005; April 1, 2003;  
 Readopted Eff. April 1, 2019.

**15A NCAC 03I .0121 MAPS AND MARKING**

- (a) Maps or charts showing the boundaries of areas identified in this Chapter and in proclamations issued by the Fisheries Director are available for inspection at the Morehead City Office of the Division of Marine Fisheries.
- (b) The Division of Marine Fisheries shall mark the boundaries of areas identified in this Chapter and in proclamations issued by the Fisheries Director with signs insofar as may be practical. No removal or relocation of any such marker or sign shall have the effect of changing the classification of any body of water or portion thereof, nor shall any such removal or relocation or the absence of any marker or sign affect the applicability of any rule pertaining to any such body of water or portion thereof. Where there is conflict between markers or signs, and boundaries described in this Chapter and in proclamations issued by the Fisheries Director, boundary descriptions shall prevail.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
 Eff. April 1, 2011;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

**15A NCAC 03I .0122 USER CONFLICT RESOLUTION**

- (a) In order to address user conflicts, the Fisheries Director may, by proclamation, impose any or all of the following restrictions:
- (1) specify time;
  - (2) specify area;
  - (3) specify means and methods;
  - (4) specify seasons; and
  - (5) specify quantity.

This authority may be used based on the Fisheries Director's own findings or on the basis of a valid request in accordance with Paragraph (b) of this Rule. The Fisheries Director shall hold a public meeting in the area of the user conflict prior to issuance of a proclamation based on his or her own findings.

- (b) Request for user conflict resolution:

- (1) Any person(s) desiring user conflict resolution may make such request in writing addressed to the Director of the Division of Marine Fisheries, P.O. Box 769, 3441 Arendell St., Morehead City, NC 28557-0769. A request shall contain the following information:
  - (A) a map of the affected area including an inset vicinity map showing the location of the area with detail sufficient to permit on-site identification and location;
  - (B) identification of the user conflict causing a need for user conflict resolution;
  - (C) recommended solution for resolving user conflict; and
  - (D) name and address of the person(s) requesting user conflict resolution.
- (2) Within 90 days of the receipt of the information required in Subparagraph (b)(1) of this Rule, the Fisheries Director shall review the information and determine if user conflict resolution is necessary. If user conflict resolution is not necessary, the Fisheries Director shall deny the request. If user conflict resolution is necessary, the Fisheries Director or designee shall hold a public meeting in the area of the user conflict. The requestor shall present his or her request at the public meeting.
- (3) Following the public meeting as described in Subparagraph (b)(2) of this Rule, the Fisheries Director shall refer the users in the conflict for mediation or deny the request. If the user conflict cannot be resolved through mediation, the Fisheries Director shall submit for approval a proclamation to the Marine Fisheries Commission that addresses the conflict.
- (4) Proclamations issued under this Rule shall suspend appropriate rules or portions of rules under the authority of the Marine Fisheries Commission as specified in the proclamation. The provisions of Rule .0102 of this Section terminating suspension of a rule pending the next Marine Fisheries Commission meeting and requiring review by the Marine Fisheries Commission at the next meeting shall not apply to proclamations issued under this Rule.

*History Note:* Authority G.S. 113-134; 113-181; 113-182; 113-221.1; 143B-289.52;  
Eff. May 1, 2015.

## **SUBCHAPTER 03J – NETS, POTS, DREDGES, AND OTHER FISHING DEVICES**

### **SECTION .0100 – NET RULES, GENERAL**

#### **15A NCAC 03J .0101 FIXED OR STATIONARY NETS**

It is unlawful to use or set fixed or stationary nets:

- (1) In the channel of the Intracoastal Waterway or in any other location where it may constitute a hazard to navigation;
- (2) So as to block more than two-thirds of any natural or manmade waterway, sound, bay, creek, inlet or any other body of water;
- (3) In the middle third of any marked navigation channel;
- (4) In the channel third of the following rivers: Roanoke, Cashie, Middle, Eastmost, Chowan, Little, Perquimans, Pasquotank, North, Alligator, Pungo, Pamlico, and Yeopim.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991.

#### **15A NCAC 03J .0102 NETS OR NET STAKES**

It shall be unlawful to use nets, or net stakes of metallic material, in any of the following Internal Coastal Waters:

- (1) within 150 yards of any railroad or highway bridge crossing the Northeast Cape Fear River, New River, White Oak River, Trent River, Neuse River, Pamlico River, Roanoke River, and Alligator River; and
- (2) within 300 yards of any highway bridge crossing Albemarle Sound, Chowan River, Croatan Sound, Currituck Sound, and Roanoke Sound.

*History Note:* Authority G.S. 113-132; 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Readopted Eff. April 1, 2019.

#### **15A NCAC 03J .0103 GILL NETS, SEINES, IDENTIFICATION, RESTRICTIONS**

(a) It is unlawful to use gill nets:

- (1) with a mesh length less than two and one-half inches; and
- (2) in Internal Coastal Waters from April 15 through December 15, with a mesh length five inches or greater and less than five and one-half inches.

(b) The Fisheries Director may, by proclamation, limit or prohibit the use of gill nets or seines in Coastal Fishing Waters, or any portion thereof, or impose any or all of the following restrictions on gill net or seine fishing operations:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods, including:
  - (A) gill net mesh length, but the maximum length specified shall not exceed six and one-half inches in Internal Coastal Waters; and
  - (B) net number and length, but for gill nets with a mesh length four inches or greater, the maximum length specified shall not exceed 2,000 yards per vessel in Internal Coastal Waters regardless of the number of individuals involved; and
- (4) specify season.

(c) It is unlawful to use fixed or stationary gill nets in the Atlantic Ocean, drift gill nets in the Atlantic Ocean for recreational purposes, or any gill nets in Internal Coastal Waters unless nets are marked by attaching to them at each end two separate yellow buoys which shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. Gill nets that are not connected together at the top line are considered as individual nets, requiring two buoys at each end of each individual net. Gill nets connected together at the top line are considered as a continuous net requiring two buoys at each end of the continuous net. Any other marking buoys on gill nets used for recreational purposes shall be yellow except one additional buoy, any shade of hot pink in color, constructed as specified in this Paragraph, shall be added at each end of each individual net. Any other marking buoys on gill nets used in commercial fishing operations shall be yellow except that one additional identification buoy of any color or any combination of colors, except any shade of hot pink, may be used at either or both ends. The owner shall be identified on a buoy on each end either by using engraved buoys or by attaching engraved metal or plastic tags to the buoys. Such identification shall include owner's last name and initials and if a vessel is used, one of the following:

- (1) owner's N.C. motor boat registration number; or
- (2) owner's U.S. vessel documentation name.

(d) It is unlawful to use gill nets:

- (1) within 200 yards of any flounder or other finfish pound net set with lead and either pound or heart in use, except from August 15 through December 31 in all Coastal Fishing Waters of the Albemarle Sound, including its tributaries to the boundaries between Coastal and Joint Fishing Waters, west of a line beginning at a point 36° 04.5184' N - 75° 47.9095' W on Powell Point; running southerly to a point 35° 57.2681' N - 75° 48.3999' W on Caroon Point, it is unlawful to use gill nets within 500 yards of any pound net set with lead and either pound or heart in use; and
- (2) from March 1 through October 31 in the Intracoastal Waterway within 150 yards of any railroad or highway bridge.

(e) It is unlawful to use gill nets within 100 feet either side of the center line of the Intracoastal Waterway Channel south of the entrance to the Alligator-Pungo River Canal near Beacon "54" in Alligator River to the South Carolina line, unless such net is used in accordance with the following conditions:

- (1) no more than two gill nets per vessel may be used at any one time;
- (2) any net used must be attended by the fisherman from a vessel who shall at no time be more than 100 yards from either net; and
- (3) any individual setting such nets shall remove them, when necessary, in sufficient time to permit unrestricted vessel navigation.

(f) It is unlawful to use runaround, drift, or other non-stationary gill nets, except as provided in Paragraph (e) of this Rule:

- (1) to block more than two-thirds of any natural or manmade waterway, sound, bay, creek, inlet, or any other body of water; or
- (2) in a location where it will interfere with navigation.

(g) It is unlawful to use unattended gill nets with a mesh length less than five inches in a commercial fishing operation in the gill net attended areas designated in 15A NCAC 03R .0112(a).

(h) It is unlawful to use unattended gill nets with a mesh length less than five inches in a commercial fishing operation from May 1 through November 30 in the Internal Coastal Waters and Joint Fishing Waters of the state designated in 15A NCAC 03R .0112(b).

(i) It is unlawful for any portion of a gill net with a mesh length five inches or greater to be within 10 feet of any point on the shoreline while set or deployed, unless the net is attended from June through October in Internal Coastal Waters.

(j) For the purpose of this Rule and 15A NCAC 03R .0112, "shoreline" is defined as the mean high water line or marsh line, whichever is more seaward.

*History Note: Authority G.S. 113-134; 113-173; 113-182; 113-221.1; 143B-289.52;  
Eff. January 1, 1991;*

*Amended Eff. August 1, 1998; March 1, 1996; March 1, 1994; July 1, 1993; September 1, 1991;  
Temporary Amendment Eff. October 2, 1999; July 1, 1999; October 22, 1998;*

*Amended Eff. April 1, 2001;*  
*Temporary Amendment Eff. May 1, 2001;*  
*Amended Eff. April 1, 2016; April 1, 2009; December 1, 2007; September 1, 2005; August 1, 2004;*  
*August 1, 2002.*

**15A NCAC 03J .0104 TRAWL NETS**

(a) It is unlawful to possess aboard a vessel while using a trawl net in Internal Coastal Waters more than 500 pounds of finfish from December 1 through March 1, and 1,000 pounds of finfish from March 2 through November 30.

(b) It is unlawful to use trawl nets:

- (1) in Internal Coastal Waters from 9:00 p.m. on Friday through 5:00 p.m. on Sunday, except:
  - (A) from December 1 through March 1 from one hour after sunset on Friday to one hour before sunrise on Monday in the areas listed in Subparagraph (b)(5) of this Rule; or
  - (B) for a holder of a Permit for Weekend Trawling for Live Shrimp in accordance with 15A NCAC 03O .0503;
- (2) for the taking of oysters;
- (3) in Albemarle Sound, Currituck Sound, and their tributaries, west of a line beginning on the south shore of Long Point at a point 36° 02.4910' N – 75° 44.2140' W; running southerly to the north shore on Roanoke Island to a point 35° 56.3302' N – 75° 43.1409' W; running northwesterly to Caroon Point to a point 35° 57.2255' N – 75° 48.3324' W;
- (4) in the areas described in 15A NCAC 03R .0106, except that the Fisheries Director may, by proclamation, open the area designated in Item (1) of 15A NCAC 03R .0106 to peeler crab trawling;
- (5) from December 1 through March 1 from one hour after sunset to one hour before sunrise in the following areas:
  - (A) in Pungo River, north of a line beginning on Currituck Point at a point 35° 24.5833' N – 76° 32.3166' W; running southwesterly to Wades Point to a point 35° 23.3062' N – 76° 34.5135' W;
  - (B) in Pamlico River, west of a line beginning on Wades Point at a point 35° 23.3062' N – 76° 34.5135' W; running southwesterly to Fulford Point to a point 35° 19.8667' N – 76° 35.9333' W;
  - (C) in Bay River, west of a line beginning on Bay Point at a point 35° 11.0858' N – 76° 31.6155' W; running southerly to Maw Point to a point 35° 09.0214' N – 76° 32.2593' W;
  - (D) in Neuse River, west of a line beginning on the Minnesott side of the Neuse River Ferry at a point 34° 57.9116' N – 76° 48.2240' W; running southerly to the Cherry Branch side of the Neuse River Ferry to a point 34° 56.3658' N – 76° 48.7110' W; and
  - (E) in New River, all waters upstream of the N.C. Highway 172 Bridge when opened by proclamation; and
- (6) in designated pot areas opened to the use of pots by 15A NCAC 03J .0301(a)(2) and described in 15A NCAC 03R .0107(a)(5), (a)(6), (a)(7), (a)(8), and (a)(9) within an area bound by the shoreline to the depth of six feet.

(c) Mesh sizes for shrimp and crab trawl nets shall meet the requirements of 15A NCAC 03L .0103 and .0202.

(d) The Fisheries Director may, with prior consent of the Marine Fisheries Commission, by proclamation, require bycatch reduction devices or codend modifications in trawl nets to reduce the catch of finfish that do not meet size limits or are unmarketable as individual foodfish by reason of size.

(e) It is unlawful to use shrimp trawl nets for recreational purposes unless the trawl net is marked by attaching to the codend (tailbag) one floating buoy, any shade of hot pink in color, which shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The owner shall be identified on the buoy by using an engraved buoy or by attaching engraved metal or plastic tags to the buoy. Such identification shall include owner's last name and initials and, if a vessel is used, one of the following:

- (1) gear owner's current motor boat registration number; or
- (2) owner's U.S. vessel documentation name.

(f) It is unlawful to use shrimp trawl nets for the taking of blue crabs in Internal Coastal Waters, except that it shall be permissible to take or possess blue crabs incidental to shrimp trawling in accordance with the following limitations:

- (1) for individuals using shrimp trawl nets authorized by a Recreational Commercial Gear License, 50 blue crabs per day, not to exceed 100 blue crabs if two or more Recreational Commercial Gear License holders are on board the same vessel; and
- (2) for commercial operations, crabs may be taken incidental to lawful shrimp trawl net operations provided that the weight of the crabs shall not exceed the greater of:
  - (A) 50 percent of the total weight of the combined crab and shrimp catch; or
  - (B) 300 pounds.

(g) The Fisheries Director may, by proclamation, close any area to trawling for specific time periods in order to secure compliance with this Rule.

*History Note:* Authority G.S. 113-134; 113-173; 113-182; 113-221.1; 143B-289.52;  
 Eff. February 1, 1991;  
 Amended Eff. August 1, 1998; May 1, 1997; March 1, 1994; February 1, 1992;  
 Temporary Amendment Eff. July 1, 1999;  
 Amended Eff. May 1, 2017; April 1, 2014; April 1, 2009; September 1, 2005; August 1, 2004; August 1, 2000.

**15A NCAC 03J .0105 PURSE SEINES**

(a) It is unlawful to use purse seines except for the taking of menhaden, Atlantic thread herring, gizzard shad or pinfish, as further restricted by (b) and (c) of this rule.

(b) It is unlawful to take menhaden, Atlantic thread herring, gizzard shad or pinfish with a purse seine in violation of any of the following limitations:

- (1) In the Atlantic Ocean during the periods and within an area described:
  - (A) In 15A NCAC 03R .0111, and
  - (B) By Session Law 2007-320.
- (2) Except as provided in Subparagraph (5), between January 16 and May 14 in:
  - (A) Internal waters, and
  - (B) Atlantic Ocean within one mile of shore.
- (3) Between January 16 and March 31 in Core Sound.
- (4) In internal waters except in:
  - (A) Pamlico Sound,
  - (B) Pamlico River east of a line from Wades Point to Intracoastal Waterway Marker No. 1 at the mouth of Goose Creek,
  - (C) Neuse River east of a line from Wilkinson Point to Cherry Point,
  - (D) Adams Creek,
  - (E) Core Sound and its tributaries,
  - (F) Back Sound, the Straits, and North river,
  - (G) Newport River,
  - (H) North River, and
  - (I) Bogue Sound.
- (5) The Fisheries Director may, by proclamation, open the Atlantic Ocean within one mile of shore and the internal waters specified in Subparagraph (4) of this Rule between April 1 and May 14, and may impose any or all of the following restrictions:
  - (A) Specify means and methods by area which may be employed in the taking;
  - (B) Limit the quantity; and
  - (C) Require submission of statistical and biological data.

(c) Menhaden, Atlantic thread herring, gizzard shad or pinfish may be taken at any time with a purse seine from beyond one mile of shore in the Atlantic Ocean and transported to port except as specified by Session Law 2007-320 and except as prohibited below:

- (1) It is unlawful to take menhaden, Atlantic thread herring, gizzard shad or pinfish by use of a purse seine between sunset on any Friday and sunrise of the following Monday from the Friday of the Memorial Day weekend through sunset on Labor Day each year.
- (2) It is unlawful to take menhaden, Atlantic thread herring, gizzard shad or pinfish by use of a purse seine between the hours of sunrise and sunset on the following holidays:
  - (A) Memorial Day;
  - (B) Fourth of July, when the Fourth of July falls on any calendar day Friday through Monday; and
  - (C) Labor Day.

(d) It is unlawful for the responsible party to fail to carry out the following requirements when a fish spill from a purse seine occurs:

- (1) Immediately notify the office of the Fisheries Director of the North Carolina Division of Marine Fisheries of such spill; and
- (2) Report to the Fisheries Director of the North Carolina Division of Marine Fisheries in writing within 30 days of the completion of spill clean-up on the circumstances associated with each spill and costs of its clean-up.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
 Eff. January 1, 1991;  
 Amended Eff. October 1, 2008.

**15A NCAC 03J .0106 CHANNEL NETS**

- (a) It is unlawful to use a channel net:
- (1) Until the Fisheries Director specifies by proclamation, time periods and areas for the use of channel nets and other fixed nets for shrimping.
  - (2) Without yellow light reflective tape on the top portion of each staff or stake and on any buoys located at either end of the net.
  - (3) With any portion of the set including boats, anchors, cables, ropes or nets within 50 feet of the center line of the Intracoastal Waterway Channel.
  - (4) In the middle third of any navigation channel marked by Corps of Engineers or U.S. Coast Guard.
  - (5) Unless attended by the fisherman who shall be no more than 50 yards from the net at all times.
- (b) It is unlawful to use or possess aboard a vessel any channel net with a corkline exceeding 40 yards.
- (c) It is unlawful to leave any channel net, channel net buoy, or channel net stakes in coastal fishing waters from December 1 through March 1.
- (d) It is unlawful to use floats or buoys of metallic material for marking a channel net set.
- (e) From March 2 through November 30, cables used in a channel net operation shall, when not attached to the net, be connected together and any attached buoy shall be connected by non-metal line.
- (f) It is unlawful to leave channel net buoys in coastal fishing waters without yellow light reflective tape on each buoy and without the owner's identification being legibly printed on each buoy. Such identification must include one of the following:
- (1) Owner's N.C. motorboat registration number; or
  - (2) Owner's U.S. vessel documentation name; or
  - (3) Owner's last name and initials.
- (g) It is unlawful to use any channel nets, anchors, lines, or buoys in such a manner as to constitute a hazard to navigation.
- (h) It is unlawful to use channel nets for the taking of blue crabs in internal waters, except that it shall be permissible to take or possess blue crabs incidental to channel net operations in accordance with the following limitations:
- (1) Crabs may be taken incidental to lawful channel net operations provided that the weight of the crabs shall not exceed:
    - (A) 50 percent of the total weight of the combined crab and shrimp catch; or
    - (B) 300 pounds, whichever is greater.
  - (2) The Fisheries Director may, by proclamation, close any area to channel net use for specific time periods in order to secure compliance with this Paragraph.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. September 1, 2005.

**15A NCAC 03J .0107 POUND NET SETS**

*History Note:* Authority G.S. 113-134; 113-182; 113-182.1; 113-221; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. April 1, 1999; March 1, 1996; March 1, 1994; September 1, 1991; January 1, 1991;  
Temporary Amendment Eff. September 1, 2000; August 1, 2000;  
Amended Eff. August 1, 2002; April 1, 2001;  
Temporary Amendment Eff. February 10, 2003;  
Amended Eff. December 1, 2007; September 1, 2005; August 1, 2004;  
Repealed Eff. April 1, 2009.

**15A NCAC 03J .0108 NETS PULLED BY MORE THAN ONE VESSEL**

It shall be unlawful to pull or tow a net with more than one vessel, except in long haul operations.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Readopted Eff. April 1, 2019.

**15A NCAC 03J .0109 LONG-HAUL FISHING OPERATIONS, IDENTIFICATION REQUIREMENTS**

It is unlawful to tow or pull a net in a long-haul or swipe net fishing excluding operations with nets made entirely of monofilament and having a mesh length of three inches or greater:

- (1) Without a floating buoy attached a minimum of every 100 yards along the cork line. The buoy shall be international orange and shall be no less than five inches in diameter and no less than 11 inches in length; and

- (2) Without a flag, square in shape, international orange in color, at least 24 inches by 24 inches in size, flying in the rigging so as to be visible when approaching the vessel from any direction.
- (3) In the internal coastal waters south and west of a line beginning on the west shore of Pamlico Sound at Bluff Point at a point 35° 19.5333' N - 76° 09.3333' W; running southeasterly to Ocracoke Island to a point 35° 08.0000' N - 75° 55.0000' W, without escape panels as follows:
  - (a) For long haul operations, two panels four feet deep and six feet long shall be installed with the entire panel within 10 feet of the staff on the end of the bunt net from which the fish are being bailed. The panels shall be in the water while fish are harvested.
  - (b) For swipe net operations, two panels three feet deep and five feet long shall be installed with the entire panel within 10 feet of the staff on the end of the bunt net from which the fish are being bailed. The panels shall be in the water while fish are harvested.
  - (c) The upper edge of one panel shall be installed within 12 to 24 inches of the float line and the lower edge of the other panel shall be installed within 12 to 24 inches of the lead line.
  - (d) The panels shall be constructed of unobstructed trawl rings with an inside diameter no less than one and nine-sixteenth inches (1 9/16"). The rings shall be fastened together at a maximum of four points per ring.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.4; 143B-289.52;  
Eff. January 1991;  
Amended Eff. August 1, 2004; April 1, 1999.

#### **15A NCAC 03J .0110 SEINES**

It is unlawful to use seines 30 feet or over in length for recreational purposes unless the net is marked by attaching to the corkline one floating buoy, any shade of hot pink in color, which shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The owner shall always be identified on the buoy using engraved buoys or by attaching engraved metal or plastic tags to the buoy. Such identification shall include owner's last name and initials and if a vessel is used, one of the following:

- (1) Gear owner's current motor boat registration number; or
- (2) Owner's U.S. vessel documentation name.

*History Note:* Authority G.S. 113-134; 113-173; 113-182; 143B-289.52;  
Temporary Adoption Eff. July 1, 1999;  
Eff. August 1, 2000.

#### **15A NCAC 03J .0111 FYKE OR HOOP NETS**

- (a) It is unlawful to use fyke or hoop nets in coastal fishing waters without:
  - (1) the owner's identification being clearly printed on a sign no less than six inches square, securely attached on an outside corner stake of each such net; or
  - (2) each net being marked by attaching a floating buoy to a single net and a buoy on each end of the line connecting multiple (two or more) nets, when stakes are not used. Buoys shall be of solid foam or other solid buoyant material and no less than five inches in diameter and no less than five inches in length. Buoys shall be of any color except yellow or hot pink. The owner shall always be identified on the attached buoy by using engraved buoys or by engraved metal or plastic tags attached to the buoy. Such identification shall include the gear owner's current motorboat registration number and the gear owner's last name and initials.
- (b) It is unlawful to use a fyke or hoop net within 200 yards of any operational pound net set.
- (c) It is unlawful to use a fyke or hoop net within 150 yards of any railroad or highway bridge.

*History Note:* Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;  
Temporary Adoption Eff. August 1, 2000;  
Amended Eff. April 1, 2003; April 1, 2001.

### **SECTION .0200 – NET RULES, SPECIFIC AREAS**

#### **15A NCAC 03J .0201 ALBEMARLE SOUND AND TRIBUTARIES**

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.4;  
Eff. January 1, 1991;  
Repealed Eff. September 1, 1991.

**15A NCAC 03J .0202 ATLANTIC OCEAN**

In the Atlantic Ocean:

- (1) It is unlawful to use nets from June 15 through August 15 in the waters of Masonboro Inlet or in the ocean within 300 yards of the beach between Masonboro Inlet and a line running southeasterly through the water tank 34° 13.1500'N - 77° 47.300' W on the northern end of Wrightsville Beach, a distance of 4400 yards parallel with the beach.
- (2) It is unlawful to use trawls within one-half mile of the beach between the Virginia line and Oregon Inlet.
- (3) It is unlawful to use a trawl with a mesh length less than four inches in the main body, three inches in the extension, and one and three-fourths inches in the cod end or tail bag inshore of a line beginning on the western side of Beaufort Inlet Channel at a point 34° 41.3000' N - 76° 40.1333' W; running westerly parallel to and one-half miles from the shore off Salter Path to a point 34° 40.5333' N - 76° 53.7500' W.
- (4) It is unlawful to use trawl nets, including flynets, southwest of the 9960-Y chain 40250 LORAN C line (running offshore in a southeasterly direction) from Cape Hatteras to the North Carolina/South Carolina line except:
  - (a) Shrimp trawls as defined in 15A NCAC 03L .0103;
  - (b) Crab trawls as defined in 15A NCAC 03L .0202; or
  - (c) Flounder trawls as defined in 15A NCAC 03M .0503.
- (5) It is unlawful to possess finfish (including pursuant to 15A NCAC 03M .0102) incidental to shrimp or crab trawl operations from December 1 through March 31 unless the weight of the combined catch of shrimp and crabs exceeds the weight of finfish, except an additional 300 pounds of kingfish (*Menticirrhus*, spp.) may be taken south of Bogue Inlet.
- (6) It is unlawful to use unattended gill nets or block or stop nets in the Atlantic Ocean within 300 yards of the beach from Beaufort Inlet to the South Carolina line from sunset Friday to sunrise Monday from Memorial Day through Labor Day.
- (7) It is unlawful to use gill nets in the Atlantic Ocean with a mesh length greater than seven inches from April 15 through December 15.
- (8) It is unlawful to use shrimp trawls in all waters west of a line beginning at the southeastern tip of Baldhead Island at a point 33° 50.4833' N - 77° 57.4667' W; running southerly in the Atlantic Ocean to a point 33° 46.2667' N - 77° 56.4000' W; from 9:00 P.M. through 5:00 A.M.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1996; September 1, 1991;  
Temporary Amendment Eff. December 1, 1997;  
Amended Eff. October 1, 2008; August 1, 2004; August 1, 1998.

**15A NCAC 03J .0203 CHOWAN RIVER AND MEHERRIN RIVER**

- (a) In the Chowan River and the Meherrin River, it shall be unlawful to do any of the following:
  - (1) set a pound net within 150 yards of the mouth of any tributary; and
  - (2) set a trotline within 100 yards of a pound net from February 1 through May 31.
- (b) In the Chowan River, it shall be unlawful to do any of the following:
  - (1) anchor the lead line of any net closer than 50 feet from shore;
  - (2) set a pound net within 200 yards parallel to any other pound net in the Chowan River, in accordance with Rule .0502 of this Subchapter; and
  - (3) use a seine within 1,000 yards of the mouth of any tributary.

*History Note:* Authority G.S. 113-132; 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. September 1, 1991;  
Readopted Eff. April 1, 2019.

**15A NCAC 03J .0204 CURRITUCK SOUND AND ITS TRIBUTARIES**

In the Internal Coastal Waters of Currituck Sound and its tributaries, it shall be unlawful to do any of the following:

- (1) conduct long haul operations, as defined in 15A NCAC 03I .0101; and
- (2) use a seine that is more than 900 yards in length or that has a mesh length of less than three inches.

*History Note:* Authority G.S. 113-132; 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. September 1, 1991;  
Readopted Eff. April 1, 2019.

**15A NCAC 03J .0205 ROANOKE: CASHIE: MIDDLE AND EASTMOST RIVERS**

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.4;  
Eff. January 1, 1991;  
Repealed Eff. September 1, 1991.

**15A NCAC 03J .0206 SOUTHPORT BOAT HARBOR**

It shall be unlawful to use commercial fishing gear in the Southport Boat Harbor, Brunswick County, north of a line beginning at a point on the west side of the mouth of the harbor 33° 54.9656' N – 78° 01.4477' W, running easterly to a point on the east side of the mouth of the harbor 33° 54.9656' N – 78° 01.3797' W.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. August 1, 2004;  
Readopted Eff. April 1, 2019.

**15A NCAC 03J .0207 NUCLEAR PLANT INTAKE CANAL**

It shall be unlawful to use any commercial fishing equipment in a nuclear plant intake canal between the fish diversion screen and the nuclear plant.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. May 1, 2015;  
Readopted Eff. April 1, 2019.

**15A NCAC 03J .0208 NEW RIVER**

- (a) It is unlawful to use trawl nets except skimmer trawls upstream of the Highway 172 Bridge over New River.  
(b) It is unlawful to use skimmer trawls upstream of the Highway 172 Bridge over New River from 9:00 P.M. through 5:00 A.M. from August 16 through November 30.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. August 1, 1998;  
Amended Eff. May 1, 2015; August 1, 2004.

**15A NCAC 03J .0209 ALBEMARLE SOUND AND CHOWAN RIVER RIVER HERRING MANAGEMENT AREAS**

It shall be unlawful to use drift gill nets with a mesh length less than three inches from January 1 through May 15 in the Albemarle Sound and Chowan River river herring management areas defined in 15A NCAC 03R .0202.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Temporary Adoption Eff. May 1, 2000;  
Eff. April 1, 2001;  
Amended Eff. May 1, 2015; June 1, 2013; December 1, 2007;  
Readopted Eff. April 1, 2019.

**SECTION .0300 – POTS, DREDGES, AND OTHER FISHING DEVICES****15A NCAC 03J .0301 POTS**

- (a) It is unlawful to use pots except during time periods and in areas specified herein:
- (1) In Coastal Fishing Waters from December 1 through May 31, except that all pots shall be removed from Internal Waters from January 15 through February 7. Fish pots upstream of U.S. 17 Bridge across Chowan River and upstream of a line across the mouth of Roanoke, Cashie, Middle, and Eastmost Rivers to the Highway 258 Bridge are exempt from the January 15 through February 7 removal requirement. The Fisheries Director may, by proclamation, reopen various waters to the use of pots after January 19 if it is determined that such waters are free of pots.
  - (2) From June 1 through November 30, north and east of the Highway 58 Bridge at Emerald Isle:
    - (A) In areas described in 15A NCAC 03R .0107(a);
    - (B) To allow for the variable spatial distribution of crustacea and finfish, the Fisheries Director may, by proclamation, specify time periods for or designate the areas described in 15A NCAC 03R .0107(b); or any part thereof, for the use of pots.

- (3) From May 1 through November 30 in the Atlantic Ocean and west and south of the Highway 58 Bridge at Emerald Isle in areas and during time periods designated by the Fisheries Director by proclamation. The Fisheries Director may, by proclamation authority established in 15A NCAC 03L .0201, further restrict the use of pots to take blue crabs.
- (b) It is unlawful to use pots:
- (1) in any navigation channel marked by State or Federal agencies; or
  - (2) in any turning basin maintained and marked by the North Carolina Ferry Division.
- (c) It is unlawful to use pots in a commercial fishing operation, unless each pot is marked by attaching a floating buoy that shall be of solid foam or other solid buoyant material and no less than five inches in diameter and no less than five inches in length. Buoys may be of any color except yellow or hot pink or any combination of colors that include yellow or hot pink. The owner shall always be identified on the attached buoy by using engraved buoys or by engraved metal or plastic tags attached to the buoy. The identification shall include one of the following:
- (1) gear owner's current motorboat registration number;
  - (2) gear owner's U.S. vessel documentation name; or
  - (3) gear owner's last name and initials.
- (d) Pots attached to shore or a pier shall be exempt from Subparagraphs (a)(2) and (a)(3) of this Rule.
- (e) It is unlawful to use shrimp pots with mesh lengths smaller than one and one-fourth inches stretch or five-eighths-inch bar.
- (f) It is unlawful to use pots to take eels with mesh lengths smaller than one-half inch by one-half inch, except until January 1, 2017 eel pots of any mesh length with an escape panel that is at least four inches square with a mesh length of one inch by one-half inch located in the outside panel of the upper chamber of rectangular pots and in the rear portion of cylindrical pots shall be allowed.
- (g) It is unlawful to use crab pots in Coastal Fishing Waters unless each pot contains no less than two unobstructed escape rings that are at least two and five-sixteenths inches inside diameter and located in the opposite outside panels of the upper chamber of the pot, except the following are exempt from the escape ring requirements:
- (1) unbaited pots;
  - (2) pots baited with a male crab; and
  - (3) pots set in areas and during time periods described in 15A NCAC 03R .0118.
- (h) The Fisheries Director may, by proclamation, exempt the escape ring requirements described in Paragraph (g) of this Rule in order to allow the harvest of mature female crabs and may impose any or all of the following restrictions:
- (1) specify time;
  - (2) specify area;
  - (3) specify means and methods;
  - (4) specify seasons; and
  - (5) specify quantity.
- (i) It is unlawful to use more than 150 crab pots per vessel in Newport River.
- (j) It is unlawful to remove crab pots from the water or remove crabs from crab pots between one hour after sunset and one hour before sunrise.
- (k) It is unlawful to use pots to take crabs unless the line connecting the pot to the buoy is non-floating.
- (l) It is unlawful to use pots with leads or leaders to take shrimp. For the purpose of this Rule, "leads" or "leaders" are defined as any fixed or stationary net or device used to direct fish into any gear used to capture fish. Any device with leads or leaders used to capture fish shall not be a pot.

*History Note: Authority G. S. 113-134; 113-173; 113-182; 113-221.1; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. August 1, 1998; May 1, 1997; March 1, 1996; March 1, 1994; October 1, 1992; September 1, 1991;  
Temporary Amendment Eff. July 1, 1999;  
Amended Eff. August 1, 2000;  
Temporary Amendment Eff. September 1, 2000;  
Amended Eff. May 1, 2015; April 1, 2014; September 1, 2005; August 1, 2004; August 1, 2002.*

#### **15A NCAC 03J .0302 RECREATIONAL USE OF POTS**

- (a) It is unlawful for a Recreational Commercial Gear License holder to use pots authorized by 15A NCAC 03O .0302 unless each pot is marked by attaching one floating buoy, any shade of hot pink in color, which shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The owner shall always be identified on the buoy using engraved buoys or by attaching engraved metal or plastic tags to the buoy. Such identification shall include the owner's last name and initials and if a vessel is used, one of the following:
- (1) Gear owner's current motor boat registration number, or
  - (2) Owner's U.S. vessel documentation name.

(b) It is unlawful for a person to use more than one crab pot attached to the shore along privately owned land or to a privately owned pier without possessing a valid Recreational Commercial Gear License.

*History Note:* Authority G.S. 113-134; 113-173; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Temporary Amendment Eff. July 1, 1999;  
Amended Eff. April 1, 2011; August 1, 2000.

**15A NCAC 03J .0303 DREDGES AND MECHANICAL METHODS PROHIBITED**

- (a) It shall be unlawful to use any dredge weighing more than 100 pounds, except in the Atlantic Ocean.  
(b) It shall be unlawful to use more than one dredge per vessel to take oysters or crabs or to use any dredges or mechanical methods between sunset and sunrise.  
(c) It shall be unlawful to possess oysters aboard a vessel with a dredge weighing more than 100 pounds on board.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1994; January 1, 1991;  
Readopted Eff. April 1, 2019.

**15A NCAC 03J .0304 ELECTRICAL FISHING DEVICE IN CAPE FEAR RIVER**

It shall be unlawful to take catfish by the use of a hand-operated device generating pulsating electrical current in the Internal Coastal Fishing Waters of the Cape Fear River except:

- (1) from 800 feet downstream of Lock and Dam No. 1 in Bladen County to where the Black River joins the Cape Fear River; and
- (2) from July 1 through March 1.

*History Note:* Authority G.S. 113-132; 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. July 1, 2008;  
Readopted Eff. April 1, 2019.

**15A NCAC 03J .0305 TROT LINES (MULTIPLE HOOK OR MULTIPLE BAIT)**

It is unlawful to use multiple hook or multiple bait trotlines for recreational purposes unless such trotlines are marked by attaching to them at each end one floating buoy, any shade of hot pink in color, which shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The owner shall always be identified on the buoy by using an engraved buoy or by attaching engraved metal or plastic tags to the buoy. Such identification shall include owner's last name and initials and if a vessel is used, one of the following:

- (1) Gear owner's current motor boat registration number, or
- (2) Owner's U.S. vessel documentation name.

*History Note:* Authority G.S. 113-134; 113-173; 113-182; 143B-289.52;  
Temporary Adoption Eff. July 1, 1999;  
Eff. August 1, 2000.

**15A NCAC 03J .0306 HOOK AND LINE**

It shall be unlawful to use any hook larger than 4/0 from July 1 through September 30 in the Internal Coastal Waters of Pamlico Sound and its tributaries south of the Albemarle Sound Management Area as defined in 15A NCAC 03R .0201 and north of a line beginning at a point 34° 59.7942' N – 76° 14.6514' W on Camp Point, running easterly to a point 34° 58.7853' N – 76° 09.8922' W on Core Banks, while using natural bait from 7:00 p.m. to 7:00 a.m. unless the terminal tackle consists of:

- (1) a "circle hook", which for the purpose of this Rule shall mean a hook with the point of the hook directed perpendicularly back toward the shank and with the barb either compressed or removed; and
- (2) a fixed sinker not less than two ounces in weight, secured not more than six inches from the fixed weight to the circle hook.

*History Note:* Authority G.S. 113-132; 113-134; 113-182; 143B-289.52;  
Eff. April 1, 2009;  
Readopted Eff. April 1, 2019.

## SECTION .0400 – FISHING GEAR

### 15A NCAC 03J .0401 FISHING GEAR

(a) The Fisheries Director in order to address issues involving user conflicts may, by proclamation, close the areas described in Paragraph (b) of this Rule to the use of specific fishing gear.

(b) It is unlawful to use fishing gear as specified by proclamation at the time and dates specified in the proclamation between the Friday before Easter through December 31 in the following areas when such areas have been closed by proclamation:

- (1) All or part of the Atlantic Ocean, up to one-half mile from the beach;
- (2) Up to one-half mile in all directions of Oregon Inlet;
- (3) Up to one-half mile in all directions of Hatteras Inlet;
- (4) Up to one-half mile in all directions of Ocracoke Inlet;
- (5) Up to one-half mile of the Cape Lookout Rock Jetty;
- (6) Up to one-half mile in all directions of fishing piers open to the public;
- (7) Up to one-half mile in all directions of State Parks;
- (8) Up to one-half mile of marinas as defined by the Coastal Resources Commission.

(c) The Fisheries Director shall specify in the proclamation the boundaries of the closure through the use of maps, legal descriptions, prominent landmarks or other permanent type markers.

(d) The Fisheries Director shall hold a public meeting in the affected area before issuance of proclamations authorized by this Rule.

*History Note: Authority G.S. 113-133; 113-134; 113-182; 113-221; 143B-289.52;  
Eff. July 1, 1993;  
Amended Eff. June 1, 1996; March 1, 1995; October 1, 1993.*

### 15A NCAC 03J .0402 FISHING GEAR RESTRICTIONS

(a) It is unlawful to use commercial fishing gear in the following areas during dates and times specified for the identified areas:

- (1) Atlantic Ocean - Dare County:
  - (A) Nags Head:
    - (i) Seines and gill nets may not be used from the North Town Limit of Nags Head at Eight Street southward to Gulf Street:
      - (I) From Wednesday through Saturday of the week of the Nags Head Surf Fishing Tournament held during October of each year the week prior to Columbus Day.
      - (II) From November 1 through December 15.
    - (ii) Commercial fishing gear may not be used within 750 feet of licensed fishing piers when open to the public.
  - (B) Oregon Inlet. Seines and gill nets may not be used from the Friday before Easter through December 31:
    - (i) Within one-quarter mile of the beach from the National Park Service Ramp #4 (35° 48.2500' N - 75° 32.7000' W) on Bodie Island to the northern terminus of the Bonner Bridge (35° 46.5000' N - 75° 32.3666' W) on Hwy. 12 over Oregon Inlet.
    - (ii) Within the area known locally as "The Pond", a body of water generally located to the northeast of the northern terminus of the Bonner Bridge.
  - (C) Cape Hatteras (Cape Point). Seines and gill nets may not be used within one-half mile of Cape Point from the Friday before Easter through December 31. The closed area is defined by a circle with a one-half mile radius having the center near Cape Point at a point 35° 12.9000' N - 75° 31.7166' W.
- (2) Atlantic Ocean - Onslow and Pender Counties. Commercial fishing gear may not be used during the time specified for the following areas:
  - (A) Topsail Beach. From January 1 through December 31, that area around Jolly Roger Fishing Pier bordered on the offshore side by a line 750 feet from the end of the pier and on the northeast and southwest by a line beginning at a point on the beach one-quarter mile from the pier extending seaward to intersect the offshore boundary.
  - (B) Surf City:
    - (i) From January 1 to June 30, that area around the Surf City Fishing Pier bordered on the offshore side by a line 750 feet from the end of the pier, on the southwest by a line beginning at a point on the beach one-quarter mile from the pier and on the

- northeast by a line beginning at a point on the beach 750 feet from the pier extending seaward to intersect the offshore boundaries.
- (ii) From July 1 to December 31, those areas around the pier bordered on the offshore side by a line 750 feet from the end of the pier, on the southwest by a line beginning at a point on the beach 750 feet from the pier and on the northeast by a line beginning at a point on the beach one-quarter mile from the pier extending seaward to intersect the offshore boundaries.
- (3) Atlantic Ocean - New Hanover County. Carolina Beach Inlet through Kure Beach. Commercial fishing gear may not be used during the times specified for the following areas:
- (A) From the Friday before Easter to November 30, within the zones adjacent to the Carolina Beach and Kure Beach Fishing Piers bordered on the offshore side by a line 750 feet from the ends of the piers and on the north and south by a line beginning at a point on the beach one-quarter mile from the pier extending seaward to intersect the offshore boundary, except the southern boundary for Kure Beach Pier is a line beginning on the beach one mile south of the pier to the offshore boundary for the pier.
- (B) From May 1 to November 30, within 900 feet of the beach, from Carolina Beach Inlet to the southern end of Kure Beach with the following exceptions:
- (i) From one-quarter mile north of Carolina Beach Fishing pier to Carolina Beach Inlet from October 1 to November 30:
- (I) Strike nets may be used within 900 feet of the beach;
- (II) Attended nets may be used between 900 feet and one-quarter mile of the beach.
- (ii) Strike nets and attended gill nets may be used within 900 feet of the beach from October 1 to November 30 in other areas except those described in Part (a)(3)(A) and Subpart (a)(3)(B)(i) of this Rule.
- (iii) It is unlawful to use commercial fishing gear within 900 feet of the beach from Carolina Beach Inlet to a point on the beach 33°55.0026' N – 77°56.6630' W near the former location of New Inlet during the October surf fishing tournament in Carolina Beach.
- (4) Pamlico River – Beaufort County. Goose Creek State Park. Commercial fishing gear may not be used from the Friday before Easter through December 31 for the following areas:
- (A) Within 150 feet of the shoreline within park boundaries;
- (B) Within the marked channel from Dinah Landing to the mouth of Upper Goose Creek.
- (b) It is unlawful to use gill nets or seines in the following areas during dates and times specified for the identified areas:
- (1) Neuse River and South River, Carteret County. No more than 1,200 feet of gill net(s) having a stretched mesh of five inches or larger may be used:
- (A) Within one-half mile of the shore from Winthrop Point at Adams Creek to Channel Marker "2" at the mouth of Turnagain Bay.
- (B) Within South River.
- (2) Cape Lookout, Carteret County:
- (A) Gill nets or seines may not be used in the Atlantic Ocean within 300 feet of the Rock Jetty (at Cape Lookout between Power Squadron Spit and Cape Point).
- (B) Seines may not be used within one-half mile of the shore from Power Squadron Spit south to Cape Point and northward to Cape Lookout Lighthouse including the area inside the "hook" south of a line from the COLREGS Demarcation Line across Bardens Inlet to the eastern end of Shackleford Banks and then to the northern tip of Power Squadron Spit from 12:01 a.m. Saturdays until 12:01 a.m. Mondays from May 1 through November 30.
- (3) State Parks/Recreation Areas:
- (A) Gill nets or seines may not be used in the Atlantic Ocean within one-quarter mile of the shore at Fort Macon State Park, Carteret County.
- (B) Gill nets or seines may not be used in the Atlantic Ocean within one-quarter mile of the shore at Hammocks Beach State Park, Onslow County, from May 1 through October 1, except strike nets and attended gill nets may be used beginning August 15.
- (C) Gill nets or seines may not be used within the boat basin and marked entrance channel at Carolina Beach State Park, New Hanover County.
- (4) Mooring Facilities/Marinas. Gill nets or seines may not be used from May 1 through November 30 within:
- (A) One-quarter mile of the shore from the east boundary fence to the west boundary fence at U.S. Coast Guard Base Fort Macon at Beaufort Inlet, Carteret County;
- (B) Canals within Pine Knoll Shores, Carteret County;

- (C) Spooners Creek entrance channel and marina on Bogue Sound, Carteret County; Harbor Village Marina on Topsail Sound, Pender County; and Marina and entrance canal within Carolina Marlin Club property adjacent to Newport River, Carteret County.
- (5) Masonboro Inlet. Gill nets and seines may not be used:
  - (A) Within 300 feet of either rock jetty; and
  - (B) Within the area beginning 300 feet from the offshore end of the jetties to the Intracoastal Waterway including all the waters of the inlet proper and all the waters of Shinn Creek.
- (6) Atlantic Ocean Fishing Piers. At a minimum, gill nets and seines may not be used within 300 feet of ocean fishing piers when open to the public. If a larger closed area has been delineated by the placement of buoys or beach markers as authorized by G.S. 113-185(a), it is unlawful to fish from vessels or with nets within the larger marked zone.
- (7) Topsail Beach, Pender County. It is unlawful to use gill nets and seines from 4:00 p.m. Friday until 6:00 a.m. the following Monday in the three finger canals on the south end of Topsail Beach.
- (8) Mad Inlet to Tubbs Inlet - Atlantic Ocean, Brunswick County. It is unlawful to use gill nets and seines from September 1 through November 15, except that a maximum of four commercial gill nets per vessel not to exceed 200 yards in length individually or 800 yards in combination may be used.
- (9) Spooners Creek, Carteret County. It is unlawful to use gill nets and seines between sunset and sunrise in Spooners Creek entrance channel in Bogue Sound, all of Spooners Creek proper and the adjoining tributary canals and channels.

*History Note:* Authority G.S. 113-133; 113-134; 113-182; 113-221; 143B-289.52;  
Eff. March 1, 1996;  
Amended Eff. October 1, 2004; August 1, 2004; April 1, 2001.

#### **15A NCAC 03J .0403 NEUSE RIVER AND ITS TRIBUTARIES**

*History Note:* Filed as a Temporary Adoption Eff. October 16, 1995, for a period of 77 days to expire on January 1, 1996;  
Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;  
Temporary Adoption Expired January 1, 1996.

#### **SECTION .0500 – POUND NETS**

#### **15A NCAC 03J .0501 DEFINITIONS AND STANDARDS FOR POUND NETS AND POUND NET SETS**

- (a) For the purpose of this Section the following terms are hereby defined:
  - (1) Pound Net Set Permit. A Division authorization to set and fish a pound net set in a commercial fishing operation in a specified location in a specified fishery.
  - (2) Permit period. One year from the date of issuance of a new or renewal pound net set permit.
  - (3) Deployed pound net. Setting of any part of a pound net, except for a location identification stake or for a pound net used in the Atlantic Ocean a location identification buoy placed at each end of a proposed new location.
  - (4) Operational pound net set. A pound net set as defined in 15A NCAC 03I .0101 and deployed according to rules and permit conditions with net attached to stakes or anchors for the lead and pound, including only a single pound in a multi-pound set, and a non-restricted opening leading into the pound such that the set is able to catch and hold fish.
  - (5) Flounder pound net. A pound net set that produces a catch consisting of 50 percent or more flounder by weight of the entire landed catch, excluding blue crabs or a pound net set with all pounds (holding pen) constructed of four inch stretch mesh or greater.
  - (6) Shrimp pound net. A pound net set with all pounds (holding pen) constructed of stretch mesh equal to or greater than one and one-fourth inches and less than or equal to two inches.
- (b) It is unlawful for a pound net used in a commercial fishing operation to:
  - (1) Be deployed on a site without first obtaining a Pound Net Set Permit from the Fisheries Director.
  - (2) Fail to be operational for a minimum of 30 consecutive days during the pound net set permit period unless a season for the fishery for which the pound net set is permitted is ended earlier due to a quota being met.
- (c) It is unlawful for a pound net set in a commercial fishing operation in coastal fishing waters to fail to:
  - (1) Have the permittee's identification legibly printed on a sign no less than six inches square, securely attached to a stake at the permitted ends of each set at all times. For pound net sets in the Atlantic Ocean using anchors instead of stakes, the set shall be identified with a yellow buoy, which shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than 11 inches in

- length. The permittee's identification shall be legibly printed on the buoy. The identification on signs or buoys shall include the Pound Net Set Permit number and the permittee's last name and initials.
- (2) Have yellow light reflective tape or yellow light reflective devices on each pound. The yellow light reflective tape or yellow light reflective devices shall be affixed to a stake of at least three inches in diameter on any outside corner of each pound, shall cover a vertical distance of not less than 12 inches, and shall be visible from all directions.
  - (3) Have a marked navigational opening at least 25 feet wide at the end of every third pound. The opening shall be marked with yellow light reflective tape or yellow light reflective devices on each side of the opening. The yellow light reflective tape or yellow light reflective devices shall be affixed to a stake of at least three inches in diameter, shall cover a vertical distance of not less than 12 inches, and shall be visible from all directions.

If a permittee notified of a violation under this Paragraph fails or refuses to take corrective action sufficient to remedy the violation within 10 days of receiving notice of the violation, the Fisheries Director shall revoke the permit.

(d) It is unlawful to use a Recreational Commercial Gear License (RCGL) shrimp pound net as defined in 15A NCAC 03O .0302 (a)(8) in coastal fishing waters unless the shrimp pound net is:

- (1) Marked by attaching to the offshore lead, one floating buoy, any shade of hot pink in color, which is of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The owner shall be identified on the buoy by using an engraved buoy or by attaching engraved metal or plastic tags to the buoy. The identification shall include owner's last name and initials and if a vessel is used, one of the following:
  - (A) Gear owner's current motor boat registration number; or
  - (B) Owner's U.S. vessel documentation name.
- (2) Set a minimum of 100 yards from a RCGL shrimp pound net set or 300 yards from an operational permitted shrimp pound net set.

(e) Escape Panels:

- (1) The Fisheries Director may, by proclamation, require escape panels in pound net sets and may impose any or all of the following requirements or restrictions on the use of escape panels:
  - (A) Specify size, number, and location.
  - (B) Specify mesh length, but not more than six inches.
  - (C) Specify time or season.
  - (D) Specify areas.
- (2) It is unlawful to use flounder pound net sets without four unobstructed escape panels in each pound. The escape panels shall be fastened to the bottom and corner ropes on each wall on the side and back of the pound opposite the heart. The escape panels shall be a minimum mesh size of five and one-half inches, hung on the diamond, and shall be at least six meshes high and eight meshes long.

(f) During 1 December through 1 February the Director shall by proclamation establish time periods and areas where it is unlawful to fail to remove all nets from pound net sets in commercial fishing operations in internal coastal waters.

(g) It is unlawful within 30 days of abandonment of a permitted pound net set to fail to remove all stakes and associated gear from coastal fishing waters. The responsible party for abandoned pound net gear may be charged the costs incurred by the Division when the Division undertakes removal of the abandoned pound net gear.

*History Note: Authority G.S. 113-134; 113-169.1; 113-182; 143B-289.52; Eff. April 1, 2009.*

### **15A NCAC 03J .0502 POUND NET SET PERMIT APPLICATION AND PROCESSING**

(a) All initial, renewal or transfer applications for Pound Net Set Permits, and the operation of such pound net sets, shall comply with the rules governing all permits as provided in 15A NCAC 03O .0502. The procedures and requirements for obtaining permits are set forth in 15A NCAC 03O .0501.

(b) Applicants for Pound Net Set permits shall meet the following eligibility requirements as determined by the Fisheries Director:

- (1) Applicant is an individual and not a corporation, partnership, organization or other entity;
- (2) Applicant has in the past complied with fisheries rules and laws and does not have any licenses or privileges under suspension or revocation. In addition, a history of habitual fisheries violations evidenced by eight or more convictions in 10 years shall make an individual ineligible.
- (3) Applicant has in the past complied with all permit conditions, rules and laws related to pound nets.
- (4) Applicant holds proper valid license(s) and permit(s) necessary to fish the type of net indicated in the application.

(c) Applications for Pound Net Set permits shall include the following:

- (1) A base map provided by the Division indicating the proposed set location including an inset vicinity map showing the location of the proposed set with detail sufficient to permit on-site identification and location.
- (2) Declaration of the type of pound net that will be deployed at the site. One of the following pound net fisheries shall be specified:
  - (A) Flounder pound net set;
  - (B) Bait pound net set;
  - (C) Shrimp pound net set;
  - (D) Blue crab pound net set;
  - (E) Other finfish pound net set.

(d) For proposed new location(s), the Fisheries Director shall issue a public notice of intent to consider issuance of a Pound Net Set Permit allowing for public comment for 20 days, and after the comment period, may hold public meetings to take comments on the proposed pound net set. If the Director does not approve or deny the application within 90 days of receipt of a complete and verified application, the application is deemed denied. The applicant shall be notified of denial in writing. Approval is conditional based upon the applicant's continuing compliance with eligibility requirements set out in Paragraph (e) of this Rule and specific conditions contained on the Pound Net Set Permit. The final decision to approve or deny the Pound Net Set Permit application may be appealed by the applicant by filing a petition for a contested case hearing, in writing, within 60 days from the date of mailing notice of such final decision to the applicant, with the Office of Administrative Hearings.

(e) In order for a site to be deemed suitable for a pound net set, the proposed set location shall meet the following criteria as determined by the Fisheries Director:

- (1) The proposed pound net set, either alone or when considered cumulatively with other existing pound net sets in the area, will not interfere with public navigation or with existing, traditional uses of the area other than navigation, and will not violate 15A NCAC 03J .0101 and .0102;
- (2) The proposed pound net set will not interfere with the rights of any riparian or littoral landowner, including the construction or use of piers;
- (3) The proposed pound net set will not, by its proximate location, interfere with existing pound net sets in the area. Flounder or other finfish pound net sets will be a minimum of 1,000 yards, as measured in a perpendicular direction, from any point on a line following the permitted location of existing pound net sets; except
  - (A) in Chowan River as referenced in 15A NCAC 03J .0203; and
  - (B) for renewal of pound net sets permitted prior to January 1, 2003;
- (4) The proposed shrimp or blue crab pound net set will be a minimum of 300 yards, as measured in a perpendicular direction, from any point on a line following the permitted location of existing pound net sets;
- (5) The proposed pound net set is not located in Core Sound in areas designated in 15A NCAC 03R .0113 except that only those Pound Net Set Permits valid within the specified area as of March 1, 1994, may be renewed or transferred subject to the requirements of this Rule; and
- (6) Issuance of the proposed Pound Net Set Permit is in compliance with management measures adopted in fishery management plans.

*History Note:* Authority G.S. 113-134; 113-169.1; 113-182; 143B-289.52; Eff. April 1, 2009.

#### **15A NCAC 03J .0503 POUND NET SET PERMIT RENEWAL**

An application for renewal of an existing Pound Net Set Permit shall be filed not less than 30 days prior to the date of expiration of the existing permit, and shall not be processed unless filed by the permittee. The Fisheries Director shall review the renewal application under the criteria for issuance of a new Pound Net Set Permit. The Fisheries Director may hold public meetings and may conduct such investigations necessary to determine if the permit should be renewed.

*History Note:* Authority G.S. 113-134; 113-169.1; 113-182; 143B-289.52; Eff. April 1, 2009.

#### **15A NCAC 03J .0504 POUND NET SET PERMIT TRANSFER**

It is unlawful to transfer a Pound Net Set Permit without a completed application for transfer being submitted to the Division not less than 45 days before the date of the transfer. The application shall be made by the proposed new permittee in writing and shall be accompanied by a copy of the current permittee's permit and an application for a Pound Net Set Permit in the new permittee's name. The Fisheries Director may hold a public meeting and conduct such investigations necessary to determine if the permit should be transferred. The transferred permit expires on the same date as the initial permit. Upon death of the permittee, the permit may be transferred to the Administrator/Executor of the estate of the

permittee if transferred within six months of the Administrator/Executor's qualification in accordance with Chapter 28A of the North Carolina General Statutes. The Administrator/Executor shall provide a copy of the deceased permittee's death certificate, a copy of letters of administration/letters testamentary and a list of eligible immediate family members as defined in G.S. 113-168 to the Morehead City Office of the Division. Once transferred to the Administrator/Executor, the Administrator/Executor may transfer the permit(s) to eligible immediate family members of the deceased permittee. No transfer is effective until approved and processed by the Division.

*History Note: Authority G.S. 113-134; 113-169.1; 113-182; 143B-289.52;  
Eff. April 1, 2009.*

#### **15A NCAC 03J .0505 POUND NET SET PERMIT CONDITIONS**

- (a) It is unlawful for a permittee:
- (1) To fail to notify the Marine Patrol Communications Center within 72 hours by phone:
    - (A) Of an operational pound net set. Notification shall include the name of permittee, type of net, Pound Net Set Permit number, county where located, a specific location site, and how many pounds are in the set; and
    - (B) Of a change to the type of net being set at the permitted site.
  - (2) To make false notifications.
  - (3) To fail to render the pound net set inoperable during any closed season for the type of fishery for which the pound net is permitted.

Failure to comply with this Paragraph is grounds for the Fisheries Director to revoke any Pound Net Set Permits held by the permittee and for denial of any future applications for Pound Net Set Permits.

- (b) Pound net sets are subject to inspection at all times.
- (c) Daily reporting may be a condition of the permit for a pound net set for fisheries under a quota.
- (d) It is unlawful to fail to remove all pound net stakes and associated gear within 30 days after expiration of the permit or notice by the Fisheries Director that an existing Pound Net Set Permit has been revoked or denied.

*History Note: Authority G.S. 113-134; 113-169.1; 113-182; 143B-289.52;  
Eff. April 1, 2009.*

### **SUBCHAPTER 03K – OYSTERS, CLAMS, SCALLOPS AND MUSSELS**

#### **SECTION .0100 – SHELLFISH, GENERAL**

#### **15A NCAC 03K .0101 PROHIBITED SHELLFISH AREAS/ACTIVITIES**

- (a) It is unlawful to possess, sell, or take oysters, clams or mussels from areas which have been designated as prohibited (polluted) by proclamation by the Fisheries Director except as provided in 15A NCAC 03K .0103, .0104, .0107, and .0401. The Fisheries Director shall issue such proclamations upon notice by the Division of Environmental Health that duly adopted criteria for approved shellfish harvest areas have not been met. The Fisheries Director may reopen any such closed area upon notification from the Division of Environmental Health that duly adopted criteria for approved shellfish harvest areas have been met. Copies of these proclamations and maps of these areas are available upon request at the Division of Marine Fisheries, 3441 Arendell St., Morehead City, NC 28557; (252) 726-7021.
- (b) The Fisheries Director may, by proclamation, close areas to the taking of oysters, clams, scallops and mussels in order to protect the shellfish populations for management purposes or for public health purposes not specified in Paragraph (a) of this Rule.
- (c) It is unlawful to possess or sell oysters, clams, or mussels taken from polluted waters outside North Carolina.

*History Note: Authority G.S. 113-134; 113-168.5; 113-169.2; 113-182; 113-221; 113-221.1; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. July 1, 1993;  
Temporary Amendment Eff. July 1, 1999;  
Amended Eff. August 1, 2000;  
Temporary Amendment Eff. October 1, 2001;  
Amended Eff. October 1, 2008; April 1, 2003.*

#### **15A NCAC 03K .0102 PROHIBITED RAKES**

It is unlawful to use a rake more than 12 inches wide or weighing more than six pounds to take:

- (1) oysters or scallops;
- (2) clams in any live oyster bed, in any established bed of submerged aquatic vegetation as described in 15A NCAC 03I .0101, or in any established bed of salt water cordgrass (*Spartina alterniflora*).

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. October 1, 2008; February 1, 2008.*

**15A NCAC 03K .0103 SHELLFISH MANAGEMENT AREAS**

(a) The Fisheries Director may, by proclamation, designate Shellfish Management Areas which meet either of the following criteria. The area has:

- (1) conditions of bottom type, salinity, currents, cover or cultch necessary for shellfish growth;
- (2) shellfish populations or shellfish enhancement projects that may:
  - (A) produce commercial quantities of shellfish at 10 bushels or more per acre;
  - (B) produce shellfish suitable for transplanting as seed or for relaying from prohibited (polluted) areas; or
  - (C) serve as sanctuaries to increase spawning and disease resistance or to prevent predation.

(b) It is unlawful to use a trawl net, long haul seine, or swipe net in any designated Shellfish or Seed Management area. These areas shall be marked with signs or buoys. Unmarked and undesignated tributaries shall be the same designation as the designated waters to which they connect or into which they flow. No unauthorized removal or relocation of any such marker shall have the effect of changing the designation of any such body of water or portion thereof, nor shall any such unauthorized removal or relocation or the absence of any marker affect the applicability of any rule pertaining to any such body of water or portion thereof.

(c) It is unlawful to take shellfish from any Shellfish Management Area which has been closed and posted, except that the Fisheries Director may, by proclamation, open specific areas to allow the taking of shellfish and may designate time, place, character, or dimensions of any method or equipment that may be employed.

*History Note: Authority G.S. 113-134; 113-182; 113-221; 113-221.1; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1994;  
Temporary Amendment Eff. October 1, 2001;  
Amended Eff. October 1, 2008; February 1, 2008; April 1, 2003.*

**15A NCAC 03K .0104 PERMITS FOR PLANTING SHELLFISH FROM PROHIBITED/POLLUTED AREAS**

(a) It is unlawful to take oysters or clams from prohibited (polluted) public waters for planting on leases and franchises except as authorized by G.S. 113-203. Lease and franchise holders shall first obtain a permit from the Fisheries Director setting forth the time, area, and method by which such shellfish may be taken. The procedures and requirements for obtaining permits are found in 15A NCAC 03O .0500.

(b) The season for relaying clams shall be between April 1 and May 15 and the season for relaying oysters shall be for a specified six week period between the date of the statewide closure of oyster season and June 30, as determined by the Fisheries Director based on the status of oyster resources available for harvest from public bottom and market factors affecting sale of oysters from public bottom which will assist in determining the statewide closure date and manpower available to monitor the relaying activity.

(c) For areas designated by the Fisheries Director as sites where shellfish would otherwise be destroyed in maintenance dredging operations, the season as set out in Paragraph (b) of this Rule shall not apply.

(d) The Fisheries Director, acting upon recommendations of the Division of Environmental Health, shall close and reopen by proclamation any private shellfish beds for which the owner has obtained a permit to relay oysters and clams from prohibited (polluted) public waters.

*History Note: Authority G.S. 113-134; 113-182; 113-203; 113-221; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1996; September 1, 1991;  
Temporary Amendment Eff. October 1, 2001;  
Amended Eff. April 1, 2003.*

**15A NCAC 03K .0105 RECREATIONAL HARVEST OF SHELLFISH**

(a) It is unlawful to take oysters or clams from public bottoms on Sundays, and scallops from public bottoms on Saturdays and Sundays except:

- (1) during open seasons, and
- (2) for recreational purposes.

(b) It is unlawful to possess, for recreational purposes, more than:

- (1) 10 conchs or whelks per person per day, not to exceed 20 conchs or whelks per vessel per day, and
- (2) 100 mussels per person per day, not to exceed 200 mussels per vessel per day, and

- (3) 100 clams per person per day, not to exceed 200 clams per vessel per day.

*History Note: Authority G.S. 113-134; 113-169.2; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1994; February 1, 1992; September 1, 1991;  
Temporary Amendment Eff. October 9, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Amended Eff. May 1, 1997; March 1, 1996;  
Temporary Amendment Eff. July 1, 1999;  
Amended Eff. October 1, 2008; August 1, 2000.*

**15A NCAC 03K .0106 TAKING OR UNLOADING OYSTERS AND CLAMS ON SUNDAY OR AT NIGHT**

- (a) It is unlawful to take oysters or clams between the hours of sunset and sunrise on any day.  
 (b) It is unlawful to unload oysters or clams from any vessel or remove any vessel containing oysters or clams from the water on Sunday or between sunset and sunrise on any day except that in New Hanover, Pender and Brunswick Counties, oysters and clams may be unloaded until two hours after sunset.  
 (c) Oysters and clams taken on Sunday from public bottom under the provisions of 15A NCAC 03K .0105 or from shellfish leases and franchises pursuant to G.S. 113-208 are exempt from Paragraph (b) of this Rule.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Temporary Amendment Eff. July 1, 1999;  
Amended Eff. October 1, 2008; August 1, 2000.*

**15A NCAC 03K .0107 DEPURATION OF SHELLFISH**

- (a) It is unlawful to take clams or oysters from the public or private prohibited (polluted) waters of the state for the purpose of depuration except when the harvest will utilize shellfish that would otherwise be destroyed in maintenance dredging operations. All harvest and transport activities within the State of North Carolina related to depuration shall be under the supervision of the Division of Marine Fisheries or the Division of Environmental Health. For the purpose of this Rule, the term depuration does not include relaying of clams or oysters from shellfish leases or franchises as authorized by 15A NCAC 03K .0104.  
 (b) The Fisheries Director, may, by proclamation, impose any or all of the following restrictions on the harvest of clams or oysters for depuration:  
 (1) Specify species;  
 (2) Specify areas except harvest will not be allowed from designated buffer zones adjacent to sewage outfall facilities;  
 (3) Specify harvest days;  
 (4) Specify time period;  
 (5) Specify quantity or size;  
 (6) Specify harvest methods;  
 (7) Specify record keeping requirements.  
 (c) Depuration permits:  
 (1) It is unlawful for individuals to harvest clams or oysters from prohibited (polluted) waters for the purpose of depuration unless they have obtained a Depuration Permit or are listed as designees on a Depuration Permit from the Division of Marine Fisheries and Division of Environmental Health setting forth the method of harvest to be employed. Permits shall be issued to licensed North Carolina Clam or Oyster Dealers only. Permittees and designees harvesting under Depuration Permits must have a current Shellfish License or Shellfish Endorsement on a Standard or Retired Standard Commercial Fishing License.  
 (2) In addition to information required in 15A NCAC 03O .0501, the permit application shall provide the name, address, location and telephone number of the depuration operation where the shellfish will be depurated.  
 (3) Clam or Oyster Dealers desiring to obtain prohibited (polluted) clams or oysters for depuration shall apply for a depuration permit at least 15 days prior to initiation of operation.  
 (d) Transport of clams or oysters for depuration:  
 (1) Clams or oysters harvested from prohibited (polluted) waters for depuration in a depuration operation located within the State of North Carolina shall be transported under the supervision of the Division of Marine Fisheries or the Division of Environmental Health.

- (2) Clams or oysters harvested from prohibited (polluted) waters for depuration in a depuration operation outside the State of North Carolina shall not be transported within the State of North Carolina except under the supervision of the Division of Marine Fisheries or the Division of Environmental Health.
- (e) It is unlawful to ship clams or oysters harvested for depuration to depuration facilities located in a state other than North Carolina unless the facility is in compliance with the applicable rules and laws of the shellfish control agency of that state.
- (f) The procedures and requirements for obtaining permits are found in 15A NCAC 03O .0500.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 113-221.1; 143B-289.52;  
Eff. January 1, 1991;  
Temporary Amendment Eff. October 1, 2001;  
Amended Eff. October 1, 2008; April 1, 2003.

**15A NCAC 03K .0108 DREDGES/MECHANICAL METHODS PROHIBITED**

- (a) It unlawful to use mechanical methods, except mechanical methods for oystering and clamming defined in 15A NCAC 03I .0101, to take shellfish.
- (b) It is unlawful to use mechanical methods for oystering or clamming to take shellfish not subject to the restrictions in 15A NCAC 03K .0201, .0204, .0302, 0304, .0404, .0501, and .0503:
  - (1) within any established bed of submerged aquatic vegetation as defined in 15A NCAC 03I .0101 or salt water cordgrass (*Spartina alterniflora*);
  - (2) in areas designated in 15A NCAC 03R .0108, except on shellfish leases and franchises with a Permit to Use Mechanical Methods for Oysters and Clams on Shellfish Leases and Franchises;
  - (3) in areas designated in 15A NCAC 03K .0204 and 03R .0103; and
  - (4) except following restrictions for the use of mechanical methods specified pursuant to 15A NCAC 03J .0303 and 03K .0201, .0302, .0404, .0501, and .0503.

*History Note:* Authority G.S. 113-134; 113-201; 143B-289.52;  
Eff. October 1, 2008.

**15A NCAC 03K .0109 SHELLFISH HARVESTER AND DEALER TAGS**

It is unlawful to possess or sell oysters, clams, or mussels in a commercial fishing operation without a harvest tag affixed to each container of oysters, clams or mussels. Tags shall be affixed by the harvester or dealer and shall meet the following criteria:

- (1) Tags shall be identified as harvest tags. They shall be durable for at least 90 days, water resistant, and a minimum of two and five-eighths inches by five and one-fourth inches in size.
- (2) Tags shall be securely fastened to the outside of each container in which shellstock is transported. A harvester or dealer tag shall be securely fastened to the outside of each container at a dealer location except, bulk shipments of shellfish in one container and from the same source may have one tag with all required information attached. Harvesters who are also certified shellfish dealers may use only their dealer tag if it contains the required information. The required information shall be included on all lots of shellfish subdivided or combined into market grades or market quantities by a harvester or a certified shellfish dealer.
- (3) Tags shall be attached to all shellfish stored at a dealer location.
- (4) Tags shall contain legible information arranged in the specific order as follows:
  - (a) The harvester's name, address and shellfish license or standard or retired standard commercial fishing license with shellfish endorsement number.
  - (b) The date of harvest.
  - (c) The most precise description of the harvest location as is practicable (e.g., Long Bay, Rose Bay) that can be easily located by maps and charts.
  - (d) Type and quantity of shellfish.
  - (e) The following statement in bold, capitalized type: "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE FOR 90 DAYS".

*History Note:* Authority G.S. 113-134; 113-168.5; 113-169.2; 113-182; 113-221; 143B-289.52;  
Eff. October 1, 2008.

**15A NCAC 03K .0110 PUBLIC HEALTH AND CONTROL OF OYSTERS, CLAMS, SCALLOPS, AND MUSSELS**

(a) The National Shellfish Sanitation Program Guide for Control of Molluscan Shellfish, Section II: Model Ordinance (Model Ordinance) includes requirements for the sale or distribution of shellfish from approved areas or shellstock dealers, as defined in 15A NCAC 18A .0301, and to ensure that shellfish have not been adulterated or mislabeled during cultivation, harvesting, processing, storage, or transport. To protect public health, the Fisheries Director may, by proclamation, impose requirements of the Model Ordinance as set forth in Paragraph (b) of this Rule on any of the following:

- (1) the cultivation, distribution, harvesting, processing, sale, storage, or transport of
  - (A) oysters;
  - (B) clams;
  - (C) scallops; or
  - (D) mussels;
- (2) areas used to store shellfish;
- (3) means and methods to take shellfish;
- (4) vessels used to take shellfish; or
- (5) shellstock conveyances as defined in 15A NCAC 18A .0301.

(b) Proclamations issued under this Rule may impose any of the following requirements:

- (1) specify time and temperature controls;
- (2) specify sanitation requirements to prevent a food safety hazard, as defined in 15A NCAC 18A .0301, or cross-contamination or adulteration of shellfish;
- (3) specify sanitation control procedures set forth in 21 Code of Federal Regulations (CFR) Part 123.11;
- (4) specify Hazard Analysis Critical Control Point (HACCP) requirements set forth in 21 CFR Part:
  - (A) 123.3 Definitions;
  - (B) 123.6 HACCP Plan;
  - (C) 123.7 Corrective Actions;
  - (D) 123.8 Verification;
  - (E) 123.9 Records; and
  - (F) 123.28 Source Controls;
- (5) specify tagging and labeling requirements;
- (6) implement the National Shellfish Sanitation Program's training requirements for shellfish harvesters and certified shellfish dealers;
- (7) require sales records and collection and submission of information to provide a mechanism for tracing shellfish product back to the water body of origin; and
- (8) require product recall and specify recall procedures.

21 CFR 123.3, 123.6-9, 123.11, and 123.28 are hereby incorporated by reference, including subsequent amendments and editions. A copy of the reference materials can be found at [http://www.ecfr.gov/cgi-bin/text-idx?SID=f4cdd666e75f54ccda1d9938f4edd9ab&mc=true&tpl=/ecfrbrowse/Title21/21tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=f4cdd666e75f54ccda1d9938f4edd9ab&mc=true&tpl=/ecfrbrowse/Title21/21tab_02.tpl), free of charge.

(c) Proclamations issued under this Rule shall suspend appropriate rules or portions of rules under the authority of the Marine Fisheries Commission as specified in the proclamation. The provisions of 15A NCAC 03I .0102 terminating suspension of a rule pending the next Marine Fisheries Commission meeting and requiring review by the Marine Fisheries Commission at the next meeting shall not apply to proclamations issued under this Rule.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 113-221.1; 113-221.2; 143B-289.52;  
Eff. April 1, 2014;  
Amended Eff. May 1, 2017;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

**15A NCAC 03K .0111 PERMITS TO USE MECHANICAL METHODS FOR SHELLFISH ON SHELLFISH LEASES OR FRANCHISES**

(a) Permits to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises shall be issued in compliance with the general rules governing all permits in 15A NCAC 03O .0500. The procedures and requirements for obtaining permits are also found in 15A NCAC 03O .0501.

(b) It is unlawful to harvest shellfish by the use of mechanical methods from shellfish leases or franchises without first obtaining a Permit to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises.

*History Note:* Authority G.S. 113-134; 113-169.1; 113-182; 143B-289.52;  
Eff. May 1, 2015.

## SECTION .0200 – OYSTERS

### 15A NCAC 03K .0201 OYSTER HARVEST MANAGEMENT

- (a) It is unlawful to take or possess oysters from public bottom except from October 15 through March 31.
- (b) The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of oysters:
- (1) specify time;
  - (2) specify area;
  - (3) specify means and methods;
  - (4) specify season within the period set forth in Paragraph (a) of this Rule;
  - (5) specify size, but the minimum size limit specified shall not be less than three inches, except the minimum size limit specified shall not be less than two and one-half inches to prevent loss of oysters due to predators, pests, or infectious oyster diseases; and
  - (6) specify quantity, but the quantity shall not exceed possession of more than 20 standard U.S. bushels in a commercial fishing operation per day.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 113-221.1; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. May 1, 2017; October 1, 2008; March 1, 1996; September 1, 1991.

### 15A NCAC 03K .0202 CULLING REQUIREMENTS FOR OYSTERS

- (a) It is unlawful to possess oysters which have accumulated dead shell, accumulated oyster cultch material, a shell length less than that specified by proclamation issued under the authority of Rule .0201 of this Section, or any combination thereof that exceeds a five-percent tolerance limit by volume. In determining whether the tolerance limit is exceeded, the Fisheries Director or his agents may grade all, any portion, or any combination of portions of the entire quantity being graded and, in cases of violations, may seize and return to public bottom or otherwise dispose of the oysters as authorized by law.
- (b) All oysters shall be culled where harvested and all oysters of less than legal size, accumulated dead shell, and cultch material shall be immediately returned to the bottom from which it was taken.
- (c) This Rule shall not apply to oysters imported from out-of-state solely for shucking by shucking and packing plants permitted by the Division of Marine Fisheries.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1996; September 1, 1991;  
Temporary Amendment Eff. July 1, 1999;  
Amended Eff. May 1, 2017; August 1, 2000.

### 15A NCAC 03K .0203 TRAWLING ACROSS OYSTER MANAGEMENT AREAS PROHIBITED

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.4;  
Eff. January 1, 1991;  
Repealed Eff. March 1, 1994.

### 15A NCAC 03K .0204 DREDGES/MECHANICAL METHODS PROHIBITED

It is unlawful to use any dredge or other mechanical method to take oysters:

- (1) in the Mechanical Methods Prohibited areas designated in 15A NCAC 03R .0108, except on shellfish leases and franchises by permit; and
- (2) on any posted bottoms upon which oysters or shells have been planted by the state, unless such bottoms have been opened to the public and dredging permitted.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. August 1, 2004; May 1, 1997.

### 15A NCAC 03K .0205 MARKETING OYSTERS TAKEN FROM PRIVATE SHELLFISH BOTTOMS

- (a) It is unlawful to take, possess, buy, or sell oysters from shellfish leases or franchises during the open season unless such oysters have been culled in accordance with Rule 15A NCAC 03K .0202.
- (b) It is unlawful to sell, purchase or possess oysters during the regular closed season without the lease or franchise holder delivering to the purchaser or other recipient a certification, on a form provided by the Division, that the oysters were taken from a valid shellfish lease or franchise. Certification forms shall be furnished by the Division to lease and franchise holders upon request.

(c) It is unlawful for lease or franchise holders or their designees to take or possess oysters from public bottom while possessing aboard a vessel oysters taken from shellfish leases or franchises.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. September 1, 1991;  
Temporary Amendment Eff. October 1, 2001;  
Amended Eff. April 1, 2003.

**15A NCAC 03K .0206 PERMITS TO USE MECHANICAL METHODS FOR OYSTERS OR CLAMS ON SHELLFISH LEASES OR FRANCHISES**

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. October 1, 1992;  
Temporary Amendment Eff. September 1, 2000;  
Amended Eff. August 1, 2002;  
Repealed Eff. May 1, 2015.

**15A NCAC 03K .0207 OYSTER SIZE AND HARVEST LIMIT EXEMPTION**

Possession and sale of oysters by a hatchery or oyster aquaculture operation and purchase and possession of oysters from a hatchery or oyster aquaculture operation shall be exempt from bag and size limit restrictions set under authority of 15A NCAC 03K .0201 and 03K .0202. It is unlawful to possess, sell, purchase, or transport such oysters unless they are in compliance with all conditions of the Aquaculture Operations Permit.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Temporary Adoption Eff. October 1, 2001;  
Eff. April 1, 2003.

**15A NCAC 03K .0208 SEED OYSTER MANAGEMENT AREAS**

(a) It is unlawful to take oysters from Seed Oyster Management Areas designated in 15A NCAC 03R .0116 for planting on shellfish leases or franchises without first obtaining a Permit to Transplant Oysters from Seed Oyster Management Areas from the Fisheries Director. The procedures and requirements for obtaining permits are set forth in 15A NCAC 03O .0501.

(b) It is unlawful to use a trawl net, long haul seine, or swipe net in any designated Seed Oyster Management Area.

*History Note:* Authority G.S. 113-134; 113-182; 113-203; 113-221; 143B-289.52;  
Eff. October 1, 2008.

**15A NCAC 03K .0209 OYSTER SANCTUARIES**

(a) It is unlawful to use a trawl net, long haul seine, or swipe net in Oyster Sanctuaries designated in 15A NCAC 03R .0117. These areas shall be marked with signs or buoys. Unmarked and undesignated tributaries shall be the same designation as the designated waters to which they connect or into which they flow. No unauthorized removal or relocation of any such marker shall have the effect of changing the designation of any such body of water or portion thereof, nor shall any such unauthorized removal or relocation or the absence of any marker affect the applicability of any rule pertaining to any such body of water or portion thereof.

(b) It is unlawful to use mechanical methods for oystering or clamming in, or to take oysters or clams from Oyster Sanctuaries designated in 15A NCAC 03R .0117.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 113-204; 143B-289.52;  
Eff. October 1, 2008.

**SECTION .0300 – HARD CLAMS (MERCENARIA)**

**15A NCAC 03K .0301 SIZE AND HARVEST LIMIT**

(a) It is unlawful to take, land, or possess aboard a vessel more than 6,250 hard clams per fishing operation from public bottom in internal waters. It is unlawful to take, possess, sell, or purchase any clams (except Rangia or freshwater clams) less than one inch thick except in accordance with 15A NCAC 3K .0305(b). Clams shall be culled where harvested and all clams of less than legal size with their shell, shall be immediately returned to the bottom from which taken. Agents of the Fisheries Director are authorized and empowered to grade all, or any portion, or any combination of portions of the

entire quantity of clams being graded and may seize and return to public bottom or other disposition as authorized by law of the entire quantity being graded or any portion thereof.

(b) Size and harvest limits established in Paragraph (a) of this Rule and the season and area limitations established in 15A NCAC 3K .0302 may not apply:

- (1) For temporary openings made upon the recommendation of Division of Environmental Health,
- (2) For maintenance dredging operations, or
- (3) For relaying of polluted clams to private shellfish bottoms as permitted by 15A NCAC 3K .0104.

*History Note:* Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1994.

**15A NCAC 03K .0302 MECHANICAL HARVEST OF CLAMS FROM PUBLIC BOTTOM**

(a) It is unlawful to take, buy, sell, or possess any clams taken by mechanical methods as defined in 15A NCAC 03I .0101, "mechanical methods for clamming," from public bottom unless the season is open.

(b) The Fisheries Director may, by proclamation, open and close the season for the taking of clams by mechanical methods from public bottom at any time in the Atlantic Ocean and only from December 1 through March 31 in Internal Coastal Waters.

(c) The Fisheries Director may, by proclamation, open to the taking of clams by mechanical methods from public bottom during open seasons only areas that were opened at any time from January 1979 through September 1988 in:

- (1) Newport, North, White Oak, and New rivers;
- (2) Core and Bogue sounds;
- (3) the Intracoastal Waterway north of "BC" Marker at Topsail Beach; and
- (4) the Atlantic Ocean.

Other areas opened for purposes as set out in 15A NCAC 03K .0301(b) shall open only for those purposes. A list of areas as described in this Paragraph is available upon request at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557.

(d) The Fisheries Director may, by proclamation, impose any of the following additional restrictions for the taking of clams by mechanical methods from public bottom during open seasons:

- (1) specify time;
- (2) specify means and methods;
- (3) specify size; and
- (4) specify quantity.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
Eff. January 1, 1991;  
Temporary Amendment Eff. October 1, 2001;  
Amended Eff. May 1, 2017; April 1, 2003.

**15A NCAC 03K .0303 PERMITS TO USE MECHANICAL METHODS FOR OYSTERS OR CLAMS ON SHELLFISH LEASES OR FRANCHISES REQUIREMENT**

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. September 1, 1991;  
Temporary Amendment Eff. September 1, 2000;  
Amended Eff. August 1, 2002;  
Repealed Eff. May 1, 2015.

**15A NCAC 03K .0304 PROHIBITED TAKING**

(a) It is unlawful to take clams by any method, other than by hand tongs, hand rakes, or by hand, except as provided in 15A NCAC 03K .0302 and .0303. Regardless of the areas which may be opened, it is unlawful to take clams by hand tongs in any established bed of submerged aquatic vegetation as described in 15A NCAC 03I .0101 or salt water cordgrass (*Spartina alterniflora*).

(b) It is unlawful to possess clam trawls or cages aboard a vessel at any time, or have kick/deflector plates normally used in the mechanical harvest of clams affixed to a vessel at any time, except during the time period specified for a mechanical clam harvest season in internal waters in accordance with 15A NCAC 03K .0302(a). A period of 14 days before and after the season as specified by proclamation will be allowed for the installation and removal of kick/deflector plates and clam trawls or cages. Vessels with permits for activities provided for in 15A NCAC 03K .0104, .0107, .0303(a), and .0401 shall be exempt from this Rule during the times such activities are permitted.

*History Note:* Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. October 1, 2008; February 1, 2008; May 1, 1997; July 1, 1993.

#### **15A NCAC 03K .0305 CLAM SIZE AND HARVEST LIMIT EXEMPTION**

Possession and sale of clams by a hatchery or clam aquaculture operation and purchase and possession of clams from a hatchery or clam aquaculture operation shall be exempt from bag and size limit restrictions in 15A NCAC 03K .0301(a). It is unlawful to possess, sell, purchase, or transport such clams unless they are in compliance with all conditions of the Aquaculture Operation Permit.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. September 1, 1991.

### **SECTION .0400 – RANGIA CLAMS**

#### **15A NCAC 03K .0401 PROHIBITED (POLLUTED) AREA PERMIT REQUIREMENT**

It is unlawful to take Rangia clams or their shells by any method from prohibited (polluted) waters without first securing a Permit to Harvest Rangia Clams from Prohibited (Polluted) Areas from the Fisheries Director. The permit application shall include a list of all designees operating under the permit. Such permit shall designate the area, means and methods, and time(s) in which Rangia clams may be taken. The permit applicant shall designate the licensed fish dealer where the Rangia clams are to be landed and the method for disposing of Rangia clam meats. The procedures and requirements for obtaining permits are found in 15A NCAC 03O .0500.

*History Note:* Authority G.S. 113-134; 113-201; 113-202; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. August 1, 2004.

#### **15A NCAC 03K .0402 SIZE AND HARVEST LIMITS**

Size and harvest limits applicable to hard clams in Rule .0301 of this Subchapter shall not apply to Rangia clams.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. August 1, 2004;  
Readopted Eff. April 1, 2019.

#### **15A NCAC 03K .0403 DISPOSITION OF MEATS**

It shall be unlawful to dispose of meats from Rangia clams taken from prohibited (polluted) waters by a method that will result in human consumption or create risk of human consumption.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-298.52;  
Eff. January 1, 1991;  
Amended Eff. August 1, 2004;  
Readopted Eff. April 1, 2019.

#### **15A NCAC 03K .0404 DREDGES AND MECHANICAL METHODS PROHIBITED AND OPEN SEASON**

It shall be unlawful to use mechanical methods for oystering or clamming to take Rangia clams or their shells:

- (1) within 100 feet of any pier;
- (2) within any established bed of submerged aquatic vegetation as defined in 15A NCAC 03I .0101 or salt water cordgrass (*Spartina alterniflora*) that may exist together or separately;
- (3) in areas designated in 15A NCAC 03R .0108, except on shellfish leases and franchises with a Permit to Use Mechanical Methods for Shellfish on Shellfish Leases and Franchises; and
- (4) in areas designated in Rule .0204 of this Subchapter and 15A NCAC 03R .0103.

Mechanical methods prohibited by this Rule shall be permitted in areas and at times specified by proclamation as authorized by Rules .0201 and .0302 of this Subchapter.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;  
Eff. August 1, 2004;  
Readopted Eff. April 1, 2019.

**15A NCAC 03K .0405 OYSTERS, HARD CLAMS, OR MUSSELS PROHIBITED**

It shall be unlawful to possess oysters, hard clams, or mussels while taking Rangia clams or their shells from a prohibited (polluted) area.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;  
Eff. August 1, 2004;  
Readopted Eff. April 1, 2019.

**SECTION .0500 – SCALLOPS**

**15A NCAC 03K .0501 BAY SCALLOP HARVEST MANAGEMENT**

The Fisheries Director may, by proclamation and pursuant to 15A NCAC 03H .0103, impose any of the following restrictions on the taking of bay scallops from public bottom:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify open seasons for the taking of bay scallops during the period beginning the last Monday in January and ending the last Friday in May;
- (5) specify size; and
- (6) specify quantity, but shall not exceed possession of more than 15 standard U.S. bushels per person per day or a total of 30 standard U.S. bushels in any combined commercial fishing operation per day.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 113-221.1; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. May 1, 2015; February 1, 2008;  
Readopted Eff. April 1, 2019.

**15A NCAC 03K .0502 TAKING BAY SCALLOPS AT NIGHT AND ON WEEKENDS**

- (a) It shall be unlawful to take bay scallops between sunset and sunrise or on Saturdays or Sundays, except as provided in Rule .0105 of this Subchapter.
- (b) Bay scallops taken on Saturdays or Sundays from shellfish leases or franchises in accordance with G.S. 113-208 shall be exempt from this Rule.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Temporary Amendment Eff. July 1, 1999;  
Amended Eff. May 1, 2015; August 1, 2000;  
Readopted Eff. April 1, 2019.

**15A NCAC 03K .0503 BAY SCALLOP DREDGE PROHIBITED**

It shall be unlawful to take bay scallops with any of the following:

- (1) dredges weighing more than 50 pounds or equipped with teeth; and
- (2) any other instrument or device designed to drag the bottom to aid in the taking of bay scallops.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Readopted Eff. April 1, 2019.

**15A NCAC 03K .0504 CALICO SCALLOP HARVEST MANAGEMENT**

- (a) It shall be unlawful to land or possess aboard a vessel calico scallops except at such times as designated by the Fisheries Director by proclamation.
- (b) The Fisheries Director may, by proclamation and pursuant to 15A NCAC 03H .0103, impose any of the following restrictions on the taking of calico scallops:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season;
- (5) specify size; and
- (6) specify quantity.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
Eff. January 1, 1991;  
Readopted Eff. April 1, 2019.

**15A NCAC 03K .0505 SEA SCALLOPS SIZE LIMIT AND TOLERANCE**

It is unlawful to land or possess sea scallops with a shell height (length) of less than three and one-half inches. A tolerance of not more than ten percent by number for undersized sea scallop shell height shall be allowed. In determining whether the proportion of undersized sea scallops exceeds the ten percent tolerance limit, the Fisheries Director and his agents are authorized and empowered to grade all, or any portion, or any combination of portions of the entire quantity being graded, and in cases of violations, may require seizure or other disposition as authorized by law.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991.

**15A NCAC 03K .0506 SOAKED OR SWELLED BAY SCALLOPS PROHIBITED**

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. July 1, 1993;  
Repealed Eff. February 1, 2008.

**15A NCAC 03K .0507 MARKETING SCALLOPS TAKEN FROM SHELLFISH LEASES OR FRANCHISES**

(a) It shall be unlawful to sell, purchase, or possess scallops during the closed season without the lease or franchise holder delivering to the purchaser or other recipient a certification, on a form provided by the Division of Marine Fisheries, that the scallops were taken from a valid shellfish lease or franchise. Certification forms shall be furnished by the Division to lease and franchise holders upon request.

(b) It shall be unlawful for lease or franchise holders or their designees to take or possess scallops from public bottom while possessing aboard a vessel scallops taken from shellfish leases or franchises.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;  
Eff. May 1, 2015;  
Readopted Eff. April 1, 2019.

**15A NCAC 03K .0508 SCALLOP AQUACULTURE HARVEST EXEMPTIONS**

The following exemptions and restrictions shall apply to the possession, sale, purchase, or transport of scallops produced in an aquaculture operation:

- (1) Possession and sale of scallops by a scallop aquaculture operation shall be exempt from restrictions set forth in Rules .0501, .0504, and .0505 of this Section.
- (2) Purchase and possession of scallops from a scallop aquaculture operation shall be exempt from restrictions set forth in Rules .0501, .0504, and .0505 of this Section.
- (3) It shall be unlawful for a person to possess, sell, purchase, or transport scallops described in Sub-Items (1) and (2) of this Rule unless in compliance with all conditions of the Aquaculture Operation Permit issued pursuant to 15A NCAC 03O .0500.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;  
Eff. May 1, 2015;  
Readopted Eff. April 1, 2019.

**SUBCHAPTER 03L – SHRIMP, CRABS, AND LOBSTER**

**SECTION .0100 – SHRIMP**

**15A NCAC 03L .0101 SHRIMP HARVEST RESTRICTIONS**

(a) It is unlawful to take shrimp until the Fisheries Director, by proclamation, opens the season.

(b) The Fisheries Director may, by proclamation, impose any or all of the following restrictions on the taking of shrimp:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season;
- (5) specify size; and

- (6) specify quantity.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. May 1, 2015.

#### **15A NCAC 03L .0102 WEEKEND SHRIMPING PROHIBITED**

It is unlawful to take shrimp by any method from 9:00 p.m. on Friday through 5:00 p.m. on Sunday, except:

- (1) in the Atlantic Ocean;
- (2) with the use of fixed and channel nets, hand seines, shrimp pots, or cast nets; or
- (3) for a holder of a Permit for Weekend Trawling for Live Shrimp in accordance with 15A NCAC 03O .0503.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. May 1, 2017; August 1, 2004; March 1, 1994.

#### **15A NCAC 03L .0103 PROHIBITED NETS, MESH LENGTHS AND AREAS**

(a) It is unlawful to take shrimp with nets with mesh lengths less than the following:

- (1) Trawl net - one and one-half inches;
- (2) Fixed nets, channel nets, float nets, butterfly nets, and hand seines - one and one-fourth inches; and
- (3) Cast net - no restriction.

(b) It is unlawful to take shrimp with a net constructed in such a manner as to contain an inner or outer liner of any mesh length. Net material used as chafing gear shall be no less than four inches mesh length, except that chafing gear with smaller mesh may be used only on the bottom one-half of the tailbag. Such chafing gear shall not be tied in a manner that forms an additional tailbag.

(c) It is unlawful to take shrimp with trawls that have a combined headrope of greater than 90 feet in Internal Coastal Waters in the following areas:

- (1) North of the 35° 46.3000' N latitude line;
- (2) Core Sound south of a line beginning at a point 34° 59.7942' N - 76° 14.6514' W on Camp Point; running easterly to a point 34° 58.7853' N - 76° 09.8922' W on Core Banks; to the South Carolina State Line;
- (3) Pamlico River upstream of a line from a point 35° 18.5882' N - 76° 28.9625' W at Pamlico Point; running northerly to a point 35° 22.3741' N - 76° 28.6905' W at Willow Point; and
- (4) Neuse River southwest of a line from a point 34° 58.2000' N - 76° 40.5167' W at Winthrop Point on the eastern shore of the entrance to Adams Creek; running northerly to a point 35° 01.0744' N - 76° 42.1550' W at Windmill Point at the entrance of Greens Creek at Oriental.

(d) Effective January 1, 2017 it is unlawful to take shrimp with trawls that have a combined headrope of greater than 220 feet in Internal Coastal Waters in the following areas:

- (1) Pamlico Sound south of the 35° 46.3000' N latitude line and north of a line beginning at a point 34° 59.7942' N - 76° 14.6514' W on Camp Point; running easterly to a point 34° 58.7853' N - 76° 09.8922' W on Core Banks;
- (2) Pamlico River downstream of a line from a point 35° 18.5882' N - 76° 28.9625' W at Pamlico Point; running northerly to a point 35° 22.3741' N - 76° 28.6905' W at Willow Point; and
- (3) Neuse River northeast of a line from a point 34° 58.2000' N - 76° 40.5167' W at Winthrop Point on the eastern shore of the entrance to Adams Creek; running northerly to a point 35° 01.0744' N - 76° 42.1550' W at Windmill Point at the entrance of Greens Creek at Oriental.

(e) It is unlawful to use a shrimp trawl in the areas described in 15A NCAC 03R .0114.

(f) It is unlawful to use channel nets except as provided in 15A NCAC 03J .0106.

(g) It is unlawful to use shrimp pots except as provided in 15A NCAC 03J .0301.

(h) It is unlawful to use a shrimp trawl that does not conform with the federal rule requirements for Turtle Excluder Devices (TED) as specified in 50 CFR Part 222.102 Definitions, 50 CFR Part 223.205 (a) and Part 223.206 (d) Gear Requirements for Trawlers, and 50 CFR Part 223.207 Approved TEDs. These federal rules are incorporated by reference including subsequent amendments and editions. Copies of these rules are available via the Code of Federal Regulations posted on the Internet at <http://www.gpoaccess.gov/cfr/index.html> and at the Division of Marine Fisheries, P.O. Box 769, Morehead City, North Carolina 28557 at no cost.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. May 1, 2015; April 1, 2009; July 1, 2006.

**15A NCAC 03L .0104 UNLAWFUL TO USE OR TAKE**

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Repealed Eff. April 1, 2009.*

**15A NCAC 03L .0105 RECREATIONAL SHRIMP LIMITS**

It is unlawful to:

- (1) Possess from areas open to the harvest of shrimp more than 48 quarts, heads on or 30 quarts, heads off, of shrimp per person per day or if a vessel is used, per vessel per day for recreational purposes except as provided in 15A NCAC 03O .0303 (e) and (f).
- (2) Take or possess more than four quarts, heads on or two and one-half quarts, heads off, of shrimp per person per day with a cast net from areas closed to the taking of shrimp.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. April 1, 2009;  
Amended Eff. May 1, 2015; June 1, 2013.*

**SECTION .0200 – CRABS****15A NCAC 03L .0201 CRAB HARVEST RESTRICTIONS**

(a) It is unlawful to possess more than 10 percent by number in any container, male and immature female hard blue crabs less than five inches from tip of spike to tip of spike and to fail to return hard blue crabs not meeting this restriction to the waters from which taken, except the Fisheries Director may, by proclamation authority established in Paragraph (f) of this Rule, further restrict the harvest of blue crabs. All blue crabs not sorted into containers as specified in Paragraph (b) of this Rule shall be deemed hard blue crabs for the purpose of establishing the 10 percent culling tolerance.

(b) It is unlawful to possess blue crabs less than five inches from tip of spike to tip of spike unless individual crabs are sorted to and placed in separate containers for each of the following categories:

- (1) soft crabs;
- (2) pink and red-line peeler crabs;
- (3) white-line peeler crabs; and
- (4) from March 1 through October 31, male crabs to be used as peeler crab bait.

The Fisheries Director may, by proclamation authority established in Paragraph (f) of this Rule, further restrict the harvest of blue crabs.

(c) It is unlawful to possess more than five percent by number of white-line peelers in a container of pink and red-line peelers, except the Fisheries Director may, by proclamation authority established in Paragraph (f) of this Rule, further restrict the harvest of blue crabs.

(d) It is unlawful to:

- (1) sell white-line peelers;
- (2) possess white-line peelers unless they are to be used in the harvester's permitted blue crab shedding operation; and
- (3) possess male white-line peelers from June 1 through September 1.

The Fisheries Director may, by proclamation authority established in Paragraph (f) of this Rule, further restrict the harvest of blue crabs.

(e) It is unlawful to possess more than 50 blue crabs per person per day, not to exceed 100 blue crabs per vessel per day for recreational purposes, except the Fisheries Director may, by proclamation authority established in Paragraph (f) of this Rule, further restrict the harvest of blue crabs.

(f) In order to comply with management measures adopted in the N.C. Blue Crab Fishery Management Plan, the Fisheries Director may, by proclamation, close the harvest of blue crabs and take the following actions for commercial and recreational blue crab harvest:

- (1) specify areas;
- (2) specify seasons;
- (3) specify time periods;
- (4) specify means and methods;
- (5) specify culling tolerance; and
- (6) specify limits on harvest based on size, quantity, sex, reproductive stage, or peeler stage.

*History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. April 1, 1997; July 1, 1993;*

*Temporary Amendment Eff. July 1, 1999;  
Amended Eff. April 1, 2014; September 1, 2005; August 1, 2000.*

**15A NCAC 03L .0202 CRAB TRAWLING**

(a) It is unlawful to take or possess aboard a vessel crabs taken by trawl in internal waters except in areas and during such times as the Fisheries Director may specify by proclamation.

(b) It is unlawful to use a trawl to take crabs that does not meet mesh length requirements, except as provided in 15A NCAC 03J .0104. The minimum mesh length to take hard crabs with a trawl is three inches, except:

- (1) The minimum mesh length is four inches in the area of western Pamlico Sound west of a line beginning at a point 35° 48.3693' N - 75° 43.7232' W on Roanoke Marshes Point; running easterly to a point 35° 48.3000' N - 75° 37.1167' W near Beacon "I" at the southern end of Roanoke Island; running southerly to a point 35° 30.7500' N - 75° 40.5667' W near the "S" Beacon at Long Shoal; running southwesterly to a point 35° 12.6167' N - 76° 04.3833' W near the "BL" Beacon on Bluff Shoal; running westerly to a point 35° 08.1000' N - 76° 17.5000' W near the "BI" Beacon at Brant Island Shoal; running southwesterly to a point 35° 04 .6167' N - 76° 27.8000' W on Point of Marsh; and
- (2) The Fisheries Director may, by proclamation, specify areas other than the area described in Subparagraph (b)(1) of this Rule for trawl mesh length use and increase the minimum trawl mesh length to no more than four inches to take hard crabs.

(c) It is unlawful to use a trawl with a mesh length less than two inches or with a combined total headrope length exceeding 25 feet to take soft or peeler crabs, except as provided in 15A NCAC 03J .0104.

*History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
Eff. February 1, 1991;  
Amended Eff. April 1, 2014; September 1, 2005; August 1, 2004; March 1, 1994; September 1, 1991.*

**15A NCAC 03L .0203 CRAB DREDGING**

(a) It is unlawful to take crabs with dredges except:

- (1) from January 1 through March 1 in the area of Pamlico Sound described in 15A NCAC 03R .0109; and
- (2) incidental to lawful oyster dredging operations in areas not subject to the exception in Subparagraph (a)(1) of this Rule provided the weight of the crabs shall not exceed:
  - (A) 50 percent of the total weight of the combined oyster and crab catch; or
  - (B) 500 pounds, whichever is less.

The Fisheries Director may, by proclamation authority established in 15A NCAC 03L .0201, further restrict the use of dredges to take blue crabs.

(b) It is unlawful to take crabs with dredges between sunset and sunrise and between sunset on any Saturday and sunrise on the following Monday, except in the Atlantic Ocean.

*History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. April 1, 2014; May 1, 1997.*

**15A NCAC 03L .0204 CRAB POTS**

(a) It is unlawful to take crabs with pots except as provided in 15A NCAC 03J .0301 and .0302. The Fisheries Director may, by proclamation authority established in 15A NCAC 03L .0201, further restrict the use of pots to take blue crabs.

(b) The Fisheries Director may, by proclamation, require the use of terrapin excluder devices in each funnel entrance in crab pots and impose the following restrictions concerning terrapin excluder devices:

- (1) specify areas;
- (2) specify time periods; and
- (3) specify means and methods.

*History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. April 1, 2014.*

**15A NCAC 03L .0205 CRAB SPAWNING SANCTUARIES**

(a) It is unlawful to set or use trawls, pots, and mechanical methods for oysters or clams or take crabs with the use of commercial fishing equipment from the crab spawning sanctuaries described in 15A NCAC 03R .0110 from March 1 through August 31.

(b) The Fisheries Director may, by proclamation, designate additional areas as crab spawning sanctuaries and may impose the following restrictions in any crab spawning sanctuary:

- (1) specify areas;
- (2) specify time periods;
- (3) specify means and methods; and
- (4) specify limits on harvest based on size, quantity, sex, reproductive stage, or peeler stage.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
 Eff. January 1, 1991;  
 Amended Eff. May 1, 1997;  
 Temporary Amendment Eff. October 2, 1999;  
 Amended Eff. April 1, 2014; April 1, 2001.

#### **15A NCAC 03L .0206 PEELER CRABS**

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
 Temporary Adoption Eff. July 1, 1999;  
 Eff. August 1, 2000;  
 Amended Eff. September 1, 2005;  
 Repealed Eff. April 1, 2014.

#### **15A NCAC 03L .0207 HORSESHOE CRABS**

(a) The annual (January through December) commercial quota for North Carolina for horseshoe crabs is established by the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab.

(b) The Fisheries Director may, by proclamation, impose any or all of the following restrictions on the taking of horseshoe crabs to maintain compliance with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab:

- (1) Specify season;
- (2) Specify areas;
- (3) Specify quantity;
- (4) Specify means and methods; and
- (5) Specify size.

(c) Horseshoe crabs taken for biomedical use under a Horseshoe Crab Biomedical Use Permit are subject to this Rule.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
 Temporary Adoption Eff. August 1, 2000;  
 Codifier determined that findings did not meet criteria for temporary rule on October 31, 2000;  
 Temporary Adoption Eff. December 6, 2000;  
 Eff. August 1, 2002;  
 Amended Eff. April 1, 2011.

#### **15A NCAC 03L .0208 STONE CRABS**

(a) It shall be unlawful to possess stone crab bodies or fail to immediately return stone crab bodies to the waters from which they are taken.

(b) It shall be unlawful to remove, take, or possess any stone crab claws from June 15 through August 15.

(c) It shall be unlawful to remove, take, or possess any claws from egg-bearing stone crabs.

(d) It shall be unlawful to use any device to take stone crabs that can puncture, crush, or injure the crab body, such as gigs, spears, grabs, hooks, or similar devices.

(e) It shall be unlawful to remove, take, or possess any stone crab claws that have a propodus (forearm) less than 2 ¾ inches in length, measured by a straight line from the elbow to the tip of the lower immovable finger. For the purpose of this Rule, "propodus" shall mean the largest section of the claw assembly that has both a movable and immovable finger and is located farthest from the body of the crab.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
 Eff. December 1, 2006;  
 Readopted Eff. April 1, 2019.

#### **15A NCAC 03L .0209 RECREATIONAL HARVEST OF CRABS**

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
 Eff. October 1, 2008;  
 Repealed Eff. April 1, 2014.

**SECTION .0300 – LOBSTER**

**15A NCAC 03L .0301 AMERICAN LOBSTER (NORTHERN LOBSTER)**

- (a) It is unlawful to possess American lobster:
- (1) with a carapace less than 3 3/8 inches or greater than 5 1/4 inches;
  - (2) which has eggs or from which eggs have been artificially removed by any method;
  - (3) meats, detached meats, detached tails or claws or any other part of a lobster that has been separated from the lobster;
  - (4) which has an outer shell which has been speared;
  - (5) that is a V-notched female lobster. A V-notched female lobster is any female lobster that bears a notch or indentation in the base of the flipper that is at least as deep as 1/8 inch, with or without setal hairs. A V-notched female lobster is also any female lobster which is mutilated in a manner which would hide, obscure or obliterate such a mark; or
  - (6) in quantities greater than 100 per day or 500 per trip for trips five days or longer taken by gear or methods other than traps.
- (b) American lobster traps not constructed entirely of wood (excluding heading or parlor twine and the escape vent) must contain a ghost panel that meets the following specifications:
- (1) the opening to be covered by the ghost panel shall be not less than 3 3/4 inches (9.53 cm) by 3 3/4 inches (9.53 cm);
  - (2) the panel must be constructed of, or fastened to the trap with, one of the following untreated materials: wood lath, cotton, hemp, sisal or jute twine not greater than 3/16 inch (0.48 cm) in diameter, or non-stainless, uncoated ferrous metal not greater than 3/32 inch (0.24 cm) in diameter;
  - (3) the door of the trap may serve as the ghost panel, if fastened with a material specified in this Section;
  - (4) the ghost panel must be located in the outer parlor(s) of the trap and not the bottom of the trap; and
  - (5) contains at least one rectangular escape vent per trap, 2 inches by 5 3/4 inches minimum size, or two circular escape vents per trap, with a minimum inside diameter of 2 5/8 inches.

*History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1996;  
Temporary Amendment Eff. August 1, 2000;  
Amended Eff. April 1, 2009; September 1, 2005; April 1, 2001.*

**15A NCAC 03L .0302 SPINY LOBSTER**

It is unlawful to:

- (1) Possess a egg bearing spiny lobster or a spiny lobster from which eggs have been stripped, scrubbed or removed;
- (2) Possess spiny lobster with a carapace length less than 3 inches;
- (3) Possess aboard a vessel or land more than two spiny lobsters per person;
- (4) Possess aboard a vessel or land detached spiny lobster tails; or
- (5) Take spiny lobsters with a gaff hook, spear or similar device. Possession of a speared, pierced, or punctured spiny lobster is prima facie evidence that prohibited gear was used.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1996.*

**SUBCHAPTER 03M – FINFISH**

**SECTION .0100 – FINFISH, GENERAL**

**15A NCAC 03M .0101 MUTILATED FINFISH**

It shall be unlawful to possess aboard a vessel or while engaged in fishing any species of finfish that is subject to a size or harvest restriction without having head and tail attached, except:

- (1) mullet when used for bait;
- (2) hickory shad when used for bait, provided that not more than two hickory shad per vessel or fishing operation may be cut for bait at any one time; and
- (3) tuna possessed in a commercial fishing operation as provided in Rule .0520 of this Subchapter.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
 Eff. January 1, 1991;  
 Amended Eff. January 1, 1991;  
 Temporary Amendment Eff. May 1, 2001;  
 Amended Eff. May 1, 2015; April 1, 2011; July 1, 2006; August 1, 2002;  
 Readopted Eff. April 1, 2019.

#### **15A NCAC 03M .0102 UNMARKETABLE FINFISH**

(a) It shall be unlawful to land finfish, taken in connection with a commercial fishing operation, that are unmarketable as individual finfish by reason of size, except a quantity not exceeding 5,000 pounds per vessel per day may be sold to a dealer that is licensed under G.S. 113-169.3(f)(6), (7), or (8).

(b) Atlantic menhaden, Atlantic thread herring, gizzard shad, and pinfish are exempt from this Rule.

*History Note:* Authority G.S. 113-134; 113-182; 113-185; 143B-289.52;  
 Eff. January 1, 1991;  
 Amended Eff. October 1, 2008;  
 Readopted April 1, 2019.

#### **15A NCAC 03M .0103 MINIMUM SIZE LIMITS**

It shall be unlawful to possess, sell, or purchase finfish under four inches in length except:

- (1) as bait in the crab pot fishery in North Carolina, if such crab pot bait is not transported west of U.S. Interstate 95 and, when transported, is accompanied by documentation showing the name and address of the shipper, the name and address of the consignee, and the total weight of the shipment;
- (2) bait in the finfish fishery with the following provisions:
  - (a) it shall be unlawful to possess more than 200 pounds of live finfish or 100 pounds of dead finfish; and
  - (b) such finfish bait is not transported outside of North Carolina;
- (3) live finfish in aquaria, provided that the finfish are not subject to other minimum size limits under the authority of Marine Fisheries Commission rules; and
- (4) Atlantic menhaden, Atlantic thread herring, gizzard shad, and pinfish.

Bait dealers who possess a valid finfish dealer license from the Division of Marine Fisheries shall be exempt from Sub-Items (2)(a) and (b) of this Rule. Tolerance of not more than five percent by number of species shall be allowed.

*History Note:* Authority G.S. 113-134; 113-182; 113-185; 143B-289.52;  
 Eff. July 1, 1993;  
 Amended Eff. April 1, 2014;  
 Readopted Eff. April 1, 2019.

### **SECTION .0200 – STRIPED BASS**

#### **15A NCAC 03M .0201 GENERAL**

(a) Striped bass is defined as striped bass (*Morone saxatilis*) and its hybrids taken in coastal and joint fishing waters.

(b) It is unlawful to possess striped bass imported from other states less than 18 inches long (total length).

(c) It is unlawful to import, buy, sell, transport, offer to buy or sell, or possess striped bass except during any:

- (1) open striped bass season established for internal coastal waters;
- (2) open striped bass season established for the Atlantic Ocean; or
- (3) open striped bass season of another state without possession of the following:
  - (A) A bill of lading as described in 15A NCAC 03I .0114; and
  - (B) A numbered, state-issued tag from the State of origin affixed through the mouth and gill cover.  
 This tag must remain affixed until processed for consumption by the consumer.

(d) The management areas for estuarine striped bass fisheries in coastal North Carolina are designated in 15A NCAC 03R .0201.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
 Eff. January 1, 1991;  
 Amended Eff. March 1, 1994; September 1, 1991;  
 Temporary Amendment Eff. May 1, 2000;  
 Amended Eff. June 1, 2013; October 1, 2008; October 1, 2004; April 1, 2001.

**15A NCAC 03M .0202 SEASON, SIZE AND HARVEST LIMIT: INTERNAL COASTAL WATERS**

(a) It is unlawful to possess striped bass from the coastal fishing waters of the Cape Fear River and its tributaries.  
(b) It is unlawful to possess striped bass from the Roanoke River Management Area in a commercial fishing operation.  
(c) The Fisheries Director may, by proclamation impose any or all the following restrictions on the taking of striped bass in a commercial fishing operation or for recreational purposes in internal coastal waters during the period from October 1 through April 30:

- (1) Specify fishing days and times;
- (2) Specify areas;
- (3) Specify quantity, except possession for recreational purposes shall not exceed:
  - (A) more than three fish in any one day in the Albemarle Sound Management Area as designated in Rule 15A NCAC 03R .0201; and
  - (B) more than two fish in any one day in the joint and coastal fishing waters of the Central Southern Management Area as designated in Rule 15A NCAC 03R .0201;
- (4) Specify means and methods; and
- (5) Specify size, but the minimum size specified shall not be less than 18 inches total length.

Fish that do not meet the minimum size limit specified by proclamation shall immediately be returned to the waters from which taken regardless of condition.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1996; November 1, 1991;  
Temporary Amendment Eff. September 1, 1996;  
Amended Eff. April 1, 1997;  
Temporary Amendment Eff. July 1, 1999;  
Amended Eff. June 1, 2013; July 1, 2008; August 1, 2000.

**15A NCAC 03M .0203 SIZE AND CREEL LIMIT: INTERNAL COASTAL WATERS**

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.4;  
Eff. January 1, 1991;  
Repealed Eff. November 1, 1991.

**15A NCAC 03M .0204 SEASON, SIZE AND HARVEST LIMIT: ATLANTIC OCEAN**

It is unlawful to possess striped bass taken from the Atlantic Ocean less than the size limit as determined by the Atlantic States Marine Fisheries Commission in their Interstate Fisheries Management Plan for striped bass. The Fisheries Director shall issue proclamations necessary to bring North Carolina's size limit in compliance with the Interstate Fisheries Management Plan.

*History Note:* Authority G.S. 113-134; 113-182; 113-221; 113-221.1; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1996;  
Temporary Amendment Eff. October 1, 1996;  
Amended Eff. October 1, 2008; July 1, 1998.

**15A NCAC 03M .0205 PROHIBITED TRAWLING**

(a) It is unlawful to possess striped bass on a vessel with a trawl net on that vessel in internal coastal waters except during transit from ocean fishing grounds to port during any open striped bass trawl season in the Atlantic Ocean established by proclamation. Striped bass so possessed must meet the minimum size limit set by proclamation.  
(b) It is unlawful to possess striped bass on a vessel in the Atlantic Ocean with a trawl net on that vessel except during any open striped bass trawl season in the Atlantic Ocean established by proclamation.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. December 1, 2007.

**15A NCAC 03M .0206 HYBRID STRIPED BASS CULTURE**

*History Note:* Authority G.S. 113-132; 113-134; 143B-289.52;  
Eff. January 1, 1991;  
Repealed Eff. April 1, 2014.

## SECTION .0300 – SPANISH AND KING MACKEREL

### 15A NCAC 03M .0301 SPANISH AND KING MACKEREL

#### (a) Spanish Mackerel:

- (1) It is unlawful to possess Spanish mackerel less than 12 inches fork length.
- (2) It is unlawful to possess more than 15 Spanish mackerel per person per day taken for recreational purposes.
- (3) It is unlawful to possess more than 15 Spanish mackerel per person per day in the Atlantic Ocean beyond three miles in a commercial fishing operation except for persons holding a valid National Marine Fisheries Service Spanish Mackerel Commercial Vessel Permit.

#### (b) King mackerel:

- (1) It is unlawful to possess king mackerel less than 24 inches fork length.
- (2) It is unlawful to possess more than three king mackerel per person per day taken for recreational purposes.
- (3) It is unlawful to possess more than three king mackerel per person per day in the Atlantic Ocean:
  - (A) by hook and line except for persons holding a valid National Marine Fisheries Service King Mackerel Commercial Vessel Permit; or
  - (B) between three miles and 200 miles from the State's mean low water mark in a commercial fishing operation except for persons holding a valid National Marine Fisheries Service King Mackerel Commercial Vessel Permit.
- (4) It is unlawful to use gill nets in the Atlantic Ocean to take more than three king mackerel per person per day south of 34° 37.3000' N (Cape Lookout).

(c) Charter vessels or head boats that hold a valid National Marine Fisheries Service Coastal Migratory Pelagic (Charter Boat and Head Boat) permit must comply with the Spanish mackerel and king mackerel possession limits established in Subparagraphs (a)(2) and (b)(2) of this Rule when fishing with more than three persons (including the captain and mate) on board.

(d) It is unlawful to possess aboard or land from a vessel, or combination of vessels that form a single operation, more than 3,500 pounds of Spanish or king mackerel, in the aggregate, in any one day.

*History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1996;  
Temporary Amendment Eff. January 1, 2000; July 1, 1999;  
Amended Eff. October 1, 2008; August 1, 2002; April 1, 2001.*

### 15A NCAC 03M .0302 PURSE GILL NET PROHIBITED

It is unlawful to have a purse gill net on board a vessel when taking or landing Spanish or King Mackerel.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991.*

## SECTION .0400 – MENHADEN AND ATLANTIC THREAD HERRING

### 15A NCAC 03M .0401 SEASON AND AREAS

### 15A NCAC 03M .0402 FOODFISH PROHIBITED

### 15A NCAC 03M .0403 FISHING ON WEEKENDS AND HOLIDAYS PROHIBITED

### 15A NCAC 03M .0404 FISH SPILL REPORTING MANDATORY

*History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. May 1, 1997;  
Repealed Eff. October 1, 2008.*

## SECTION .0500 – OTHER FINFISH

### 15A NCAC 03M .0501 RED DRUM

- (a) It shall be unlawful to remove red drum from any type of net with the aid of any boat hook, gaff, spear, gig, or similar device.
- (b) It shall be unlawful to take or possess red drum taken by any boat hook, gaff, spear, gig, or similar device.
- (c) It shall be unlawful to possess red drum less than 18 inches total length or greater than 27 inches total length.

(d) It shall be unlawful to possess more than one red drum per person per day taken by hook and line or for recreational purposes.

(e) Annual commercial harvest limit for red drum:

- (1) The annual commercial harvest limit for red drum shall be 250,000 pounds.
- (2) The annual commercial harvest limit for red drum shall be calculated from September 1 through August 31 and is allotted in two periods:
  - (A) September 1 through April 30 at 150,000 pounds; and
  - (B) May 1 through August 31 at 100,000 pounds plus any remainder from the first period allotment.
- (3) If the harvest limit is projected to be taken in any period, the Fisheries Director shall, by proclamation, prohibit possession of red drum taken in a commercial fishing operation for the remainder of that period.
- (4) Any commercial harvest limit that is exceeded during one year shall result in the poundage overage being deducted from the subsequent year's commercial harvest limit, and the Fisheries Director shall, by proclamation, adjust the period allotments as described in this Paragraph.

*History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*  
*Eff. January 1, 1991;*  
*Amended Eff. March 1, 1996; October 1, 1992; September 1, 1991;*  
*Temporary Amendment Eff. May 1, 2000; July 1, 1999; October 22, 1998;*  
*Amended Eff. April 1, 2001;*  
*Temporary Amendment Eff. May 1, 2001;*  
*Amended Eff. April 1, 2009; October 1, 2008; August 1, 2002;*  
*Readopted Eff. April 1, 2019.*

#### **15A NCAC 03M .0502 MULLET**

(a) It shall be unlawful to possess more than 200 mullet per person per day for recreational purposes.

(b) The Fisheries Director may, by proclamation and pursuant to 15A NCAC 03H .0103, impose any of the following restrictions on the taking of mullet:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season;
- (5) specify size; and
- (6) specify quantity, except as provided in Paragraph (a) of this Rule.

*History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*  
*Eff. January 1, 1991;*  
*Amended Eff. July 1, 2006;*  
*Readopted Eff. April 1, 2019.*

#### **15A NCAC 03M .0503 FLOUNDER**

(a) It is unlawful to possess flounder less than 14 inches total length taken from the Atlantic Ocean in a commercial fishing operation.

(b) From October 1 through April 30, it shall be unlawful to use a trawl in the Atlantic Ocean within three miles of the ocean beach from the North Carolina/Virginia state line (36° 33.000'N) to Cape Lookout (34° 36.000'N) unless each trawl has a mesh length of 5 1/2 inches or larger diamond mesh (stretched) or 6 inches or larger square mesh (stretched) applied throughout the body, extension(s) and the cod end (tailbag) of the net except as provided in Paragraphs (g) and (h) of this Rule.

(c) License to Land Flounder from the Atlantic Ocean:

- (1) It is unlawful to land more than 100 pounds per trip of flounder taken from the Atlantic Ocean unless the owner of the vessel or in the case of Land or Sell Licenses, the responsible party, has been issued a License to Land Flounder from the Atlantic Ocean and the vessel in use is the vessel specified on the License to Land Flounder from the Atlantic Ocean.
- (2) It is unlawful for a fish dealer to purchase or offload more than 100 pounds of flounder taken from the Atlantic Ocean by a vessel whose owner, or in the case of Land or Sell Licenses, the responsible party, has not first procured a valid North Carolina License to Land Flounder from the Atlantic Ocean and the vessel in use is the vessel specified on the License to Land Flounder from the Atlantic Ocean.
- (3) It is unlawful for any person to land flounder from the Atlantic Ocean under a License to Land Flounder from the Atlantic Ocean unless that person is the holder of the license or the master designated on the license.

- (4) It is unlawful for any individual to land flounder from the Atlantic Ocean without having ready at hand for inspection a valid License to Land Flounder from the Atlantic Ocean, except as specified in Subparagraph (c)(1) of this Rule.
- (d) All fish dealer transactions in flounder landed from the Atlantic Ocean must be conducted in accordance with the Atlantic Ocean Flounder Dealer Permits in 15A NCAC 030 .0503 and related rules in 15A NCAC 030 .0500.
- (e) It is unlawful to transfer flounder taken from the Atlantic Ocean from one vessel to another.
- (f) Tailbag liners of any mesh size, the multiple use of two or more cod ends, or other netting material that in any way could restrict the legal size mesh shall not be used or possessed on the deck of a vessel in the Atlantic Ocean from October 1 through April 30 from the North Carolina/Virginia state line (36° 33.000' N) to Cape Lookout (34° 36.0000'N).
- (g) Trawls with a cod end mesh size smaller than described in Paragraph (b) of this Rule may be used or possessed on the deck of a vessel provided not more than 100 pounds of flounder per trip from May 1 through October 31 or more than 200 pounds from November 1 through April 30 is possessed aboard or landed from that vessel.
- (h) Flynets are exempt from the flounder trawl mesh requirements if they meet the following definition:
- (1) The net has large mesh in the wings that measure 8 inches to 64 inches;
  - (2) The first body section (belly) of the net has 35 or more meshes that are at least 8 inches; and
  - (3) The mesh decreases in size throughout the body of the net to as small as 2 inches or smaller towards the terminus of the net.
- (i) Commercial Season.
- (1) The North Carolina season for landing ocean-caught flounder shall open January 1 each year. If 80 percent of the quota allocated to North Carolina in accordance with the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine Fisheries Commission Fishery Management Plan for Summer Flounder is projected to be taken, the Fisheries Director shall, by proclamation, close North Carolina ports to landing of flounder taken from the ocean.
  - (2) The season for landing flounder taken in the Atlantic Ocean shall reopen November 1 if any of the quota allocated to North Carolina in accordance with the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine Fisheries Commission Fishery Management Plan for Summer Flounder remains. If after reopening, 100 percent of the quota allocated to North Carolina in accordance with the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine Fisheries Commission Fishery Management Plan for Summer Flounder is projected to be taken prior to the end of the calendar year, the Fisheries Director shall, by proclamation, close North Carolina ports to landing of flounder taken from the ocean.
  - (3) During any closed season prior to November 1, vessels may land up to 100 pounds of flounder per trip taken from the Atlantic Ocean.
- (j) The Fisheries Director may, by proclamation, establish trip limits for the taking of flounder from the Atlantic Ocean to assure that the individual state quota allocated to North Carolina in the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine Fisheries Commission Fishery Management Plan for Summer Flounder is not exceeded.
- (k) The Fisheries Director may, by proclamation, based on variability in environmental and local stock conditions, take any or all of the following actions in the flounder fishery:
- (1) Specify size;
  - (2) Specify season;
  - (3) Specify area;
  - (4) Specify quantity;
  - (5) Specify means/methods; and
  - (6) Require submission of statistical and biological data.
- (l) Possession and sale of flounder by a hatchery or flounder aquaculture operation and purchase and possession of flounder from a hatchery or flounder aquaculture operation shall be exempt from season and size limit restrictions set under Paragraph (k) of this Rule. It is unlawful to possess, sell, purchase, or transport such flounder unless they are in compliance with all conditions of the Aquaculture Operations Permit.

*History Note: Authority G.S. 113-134; 113-169.5; 113-182; 113-221; 143B-289.52;*  
*Eff. January 1, 1991;*  
*Amended Eff. March 1, 1996; February 1, 1992;*  
*Temporary Amendment Eff. November 1, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*  
*Temporary Amendment Eff. December 23, 1996;*  
*Amended Eff. April 1, 1997;*  
*Temporary Amendment Eff. June 1, 1998; August 18, 1997;*  
*Amended Eff. April 1, 1999;*  
*Temporary Amendment Eff. May 1, 2000; July 1, 1999;*  
*Amended Eff. April 1, 2001; August 1, 2000;*

*Temporary Amendment Eff. September 1, 2004;*  
*Temporary Amendment Expired June 12, 2005;*  
*Amended Eff. September 1, 2005.*

**15A NCAC 03M .0504 TROUT**

*History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;*  
*Eff. January 1, 1991;*  
*Amended Eff. March 1, 1996; March 1, 1995; February 1, 1992;*  
*Temporary Amendment Eff. September 9, 1996;*  
*Temporary Amendment Eff. October 1, 1996;*  
*Amended Eff. April 1, 1997;*  
*Temporary Amendment Eff. July 1, 1999;*  
*Amended Eff. October 1, 2008; August 1, 2000;*  
*Repealed Eff. April 1, 2012.*

**15A NCAC 03M .0505 SHARK**

*History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.4;*  
*Eff. January 1, 1991;*  
*Amended Eff. September 1, 1991;*  
*Repealed Eff. October 1, 2008.*

**15A NCAC 03M .0506 SNAPPER GROUPER COMPLEX**

- (a) In the Atlantic Ocean, it shall be unlawful for an individual fishing under a Recreational Commercial Gear License with seines, shrimp trawls, pots, trotlines, or gill nets to take any species of the snapper grouper complex.
- (b) The list of species of the snapper grouper complex in the South Atlantic Fishery Management Council Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region is incorporated by reference, including subsequent amendments and editions. Copies of the plan are available at [www.safmc.net](http://www.safmc.net) and at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, North Carolina 28557, at no cost.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*  
*Eff. January 1, 1991;*  
*Amended Eff. April 1, 1997; March 1, 1996; September 1, 1991;*  
*Temporary Amendment Eff. December 23, 1996;*  
*Amended Eff. August 1, 1998; April 1, 1997;*  
*Temporary Amendment Eff. January 1, 2002; August 29, 2000; January 1, 2000; May 24, 1999;*  
*Amended Eff. October 1, 2008; May 1, 2004; July 1, 2003; April 1, 2003; August 1, 2002;*  
*Readopted Eff. April 1, 2019.*

**15A NCAC 03M .0507 BILLFISH**

- (a) It shall be unlawful to take blue marlin, white marlin, roundscale spearfish, or sailfish, except by hook and line or for recreational purposes.
- (b) For blue marlin, white marlin, and roundscale spearfish, it shall be unlawful to do any of the following:
- (1) possess blue marlin less than 99 inches in length from the lower jaw to the fork in the tail;
  - (2) possess white marlin or roundscale spearfish less than 66 inches in length from the lower jaw to the fork in the tail;
  - (3) possess more than one blue marlin, white marlin, or roundscale spearfish in the aggregate per vessel per trip; and
  - (4) sell or offer for sale blue marlin, white marlin, or roundscale spearfish.
- (c) For sailfish, it shall be unlawful to do any of the following:
- (1) possess sailfish less than 63 inches in length from the lower jaw to the fork in the tail;
  - (2) possess more than one sailfish per person per day; and
  - (3) sell or offer for sale sailfish.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*  
*Eff. January 1, 1991;*  
*Amended Eff. March 1, 1996; March 1, 1994; February 1, 1992; September 1, 1991;*  
*Temporary Amendment Eff. June 7, 1998; September 1, 1996;*  
*Amended Eff. July 1, 1998;*

*Temporary Amendment Eff. July 1, 1999;*  
*Amended Eff. August 1, 2000;*  
*Readopted Eff. April 1, 2019.*

**15A NCAC 03M .0508 STURGEON**

It is unlawful to possess sturgeon in North Carolina.

*History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.4;*  
*Eff. September 1, 1991;*  
*Amended Eff. July 1, 1993;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**15A NCAC 03M .0509 TARPON**

- (a) It is unlawful to sell or offer for sale tarpon.
- (b) It is unlawful to possess more than one tarpon per person taken in any one day.
- (c) It is unlawful to take tarpon by any method other than hook-and-line.

*History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.4;*  
*Eff. October 1, 1992.*

**15A NCAC 03M .0510 AMERICAN EEL**

- (a) It shall be unlawful to possess, sell, or take American eels less than nine inches in length.
- (b) It shall be unlawful to possess more than 25 American eels per person per day for recreational purposes, except the master and each mate of for-hire vessels that hold a valid for-hire license may possess 50 eels each per day.
- (c) It shall be unlawful to possess American eels from September 1 through December 31, except when taken by baited pots.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*  
*Eff. July 1, 1993;*  
*Temporary Amendment Eff. August 1, 2000;*  
*Amended Eff. May 1, 2015; April 1, 2001;*  
*Readopted Eff. April 1, 2019.*

**15A NCAC 03M .0511 BLUEFISH**

It is unlawful to possess more than 15 bluefish per person per day for recreational purposes. Of these 15 bluefish, it is unlawful to possess more than five bluefish that are greater than 24 inches total length.

*History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;*  
*Eff. March 1, 1994;*  
*Amended Eff. March 1, 1996;*  
*Temporary Amendment Eff. September 9, 1996;*  
*Amended Eff. April 1, 1997;*  
*Temporary Amendment Eff. July 1, 1999;*  
*Amended Eff. October 1, 2008; April 1, 2003; August 1, 2000.*

**15A NCAC 03M .0512 COMPLIANCE WITH FISHERY MANAGEMENT PLANS**

(a) In order to comply with management requirements incorporated in Federal Fishery Management Council Management Plans or Atlantic States Marine Fisheries Commission Management Plans or to implement state management measures, the Fisheries Director may, by proclamation, take any or all of the following actions for species listed in the Interjurisdictional Fisheries Management Plan:

- (1) Specify size;
- (2) Specify seasons;
- (3) Specify areas;
- (4) Specify quantity;
- (5) Specify means and methods; and
- (6) Require submission of statistical and biological data.

(b) Proclamations issued under this Rule shall be subject to approval, cancellation, or modification by the Marine Fisheries Commission at its next regularly scheduled meeting or an emergency meeting held pursuant to G.S. 113-221.1.

*History Note:* Authority G.S. 113-134; 113-182; 113-221; 113-221.1; 143B-289.52;  
Eff. March 1, 1996;  
Amended Eff. October 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

**15A NCAC 03M .0513 RIVER HERRING**

It shall be unlawful to take or possess river herring from North Carolina Coastal Fishing Waters. Possession of river herring from sources other than North Carolina Coastal Fishing Waters shall be limited to fish less than or equal to six inches total length when aboard a vessel or while engaged in fishing.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. March 1, 1995;  
Amended Eff. August 1, 1998;  
Temporary Amendment Eff. May 1, 2000; August 1, 1999; July 1, 1999; March 1, 1999;  
Amended Eff. June 13, 2016; October 1, 2008; December 1, 2007; April 1, 2001;  
Readopted Eff. April 1, 2019.

**15A NCAC 03M .0514 SCUP**

*History Note:* Authority G.S. 113-134; 113-182; 113-221; 143B-289.4;  
Temporary Adoption Eff. December 23, 1996;  
Eff. July 1, 1998;  
Repealed Eff. October 1, 2008.

**15A NCAC 03M .0515 DOLPHIN**

- (a) It shall be unlawful to possess for recreational purposes any of the following:
  - (1) more than 10 dolphin per person per day taken by hook and line; and
  - (2) more than 60 dolphin per vessel per day regardless of the number of individuals on board, except headboat vessels with a valid U.S. Coast Guard Certificate of Inspection may possess 10 dolphin per paying customer.
- (b) It shall be unlawful for a commercial fishing operation without a valid federal Atlantic Dolphin/Wahoo Commercial vessel permit to do any of the following:
  - (1) take or possess more than 10 dolphin per person per day; and
  - (2) sell dolphin.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Temporary Adoption Eff. July 1, 1999;  
Temporary Adoption Eff. January 1, 2000;  
Eff. April 1, 2001;  
Amended Eff. September 1, 2005;  
Readopted Eff. April 1, 2019.

**15A NCAC 03M .0516 COBIA**

- (a) It is unlawful to possess cobia less than 33 inches fork length.
- (b) It is unlawful to possess more than two cobia per person per day.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Temporary Adoption Eff. July 1, 1999;  
Eff. August 1, 2000.

**15A NCAC 03M .0517 WAHOO**

- (a) It shall be unlawful to possess for recreational purposes more than two wahoo per person per day taken by hook and line.
- (b) It shall be unlawful for a commercial fishing operation to do any of the following:
  - (1) without a valid federal Atlantic Dolphin/Wahoo Commercial vessel permit:
    - (A) to take or possess more than two wahoo per person per day; and
    - (B) to sell wahoo; and
  - (2) to possess aboard a vessel or land more than 500 pounds of wahoo per trip.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. September 1, 2005;  
Readopted Eff. April 1, 2019.

**15A NCAC 03M .0518 KINGFISHES (SEA MULLET)**

The Fisheries Director may, by proclamation and pursuant to 15A NCAC 03H .0103, impose any of the following restrictions on the taking of kingfishes:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season;
- (5) specify size; and
- (6) specify quantity.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
Eff. October 1, 2008;  
Readopted Eff. April 1, 2019.

**15A NCAC 03M .0519 SHAD**

- (a) It is unlawful to take American shad and hickory shad by any method except hook-and-line from April 15 through December 31.
- (b) It is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per person per day taken by hook-and-line or for recreational purposes.
- (c) It is unlawful to take or possess American shad from the Atlantic Ocean.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
Eff. October 1, 2008;  
Amended Eff. April 1, 2012.

**15A NCAC 03M .0520 TUNA**

- (a) It shall be unlawful to possess for recreational purposes any of the following:
  - (1) yellowfin tuna less than 27 inches curved fork length;
  - (2) bigeye tuna less than 27 inches curved fork length; and
  - (3) more than three yellowfin tuna per person per day.
- (b) It shall be unlawful to possess in a commercial fishing operation any of the following:
  - (1) yellowfin tuna less than 27 inches curved fork length or 27 inches from the fork of the tail to the forward edge of the cut of beheaded tuna;
  - (2) bigeye tuna less than 27 inches curved fork length or 27 inches from the fork of the tail to the forward edge of the cut of beheaded tuna;
  - (3) Atlantic bluefin tuna less than 73 inches curved fork length or 54 inches pectoral fin curved fork length; and
  - (4) tuna subject to a size or harvest restriction without having the tail attached.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. October 1, 2008;  
Amended Eff. April 1, 2011;  
Readopted Eff. April 1, 2019.

**15A NCAC 03M .0521 SHEEPSHEAD**

The Fisheries Director may, by proclamation and pursuant to 15A NCAC 03H .0103, impose any of the following restrictions on the taking of sheepshead:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season;
- (5) specify size; and
- (6) specify quantity.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
Eff. April 1, 2014;

*Readopted Eff. April 1, 2019.*

**15A NCAC 03M .0522 SPOTTED SEATROUT**

The Fisheries Director may, by proclamation, impose any of the following requirements on the taking of spotted seatrout:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season;
- (5) specify size; and
- (6) specify quantity.

*History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
Eff. May 1, 2017.*

**SUBCHAPTER 03N – FISH HABITAT AREAS**

**15A NCAC 03N .0101 SCOPE AND PURPOSE**

To establish and protect those fragile estuarine and marine areas which support juvenile and adult populations of economically important fish species, as well as forage fish utilized in the food chain, the Rules in this Subchapter set forth permanent fish habitat areas in all coastal fishing waters as defined through extensive estuarine and marine survey sampling conducted by the Division.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. December 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**15A NCAC 03N .0102 NURSERY AREAS DEFINED**

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Repealed Eff. December 1, 2007.*

**15A NCAC 03N .0103 NURSERY AREA BOUNDARIES**

- (a) Primary and secondary nursery areas are defined in 15A NCAC 03I .0101 and designated in 15A NCAC 03R .0103, .0104, and .0105.
- (b) Unless otherwise specified by the rule, primary nursery areas described in 15A NCAC 03R .0103 encompass all waters from the described line in the direction indicated in rule up to the headwaters of the waterbody or Inland-Coastal boundary lines, whichever area is first encountered.
- (c) Unless otherwise specified by the rule, permanent and special secondary nursery areas designated in 15A NCAC 03R .0104 and .0105 encompass all waters from the described line in the direction indicated in rule up to the primary nursery area lines, Inland-Coastal boundary lines or the headwaters of the waterbody, whichever area is first encountered.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. September 1, 1991;  
Recodified from 15A NCAC 03N .0003 Eff. May 1, 1997;  
Amended Eff. December 1, 2007; August 1, 2004; May 1, 1997;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**15A NCAC 03N .0104 PROHIBITED GEAR, PRIMARY NURSERY AREAS**

It is unlawful to use any trawl net, long haul seine, swipe net, dredge, or mechanical method for clams or oysters for the purpose of taking any marine fishes in any of the primary nursery areas described in 15A NCAC 03R .0103.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. September 1, 1991;  
Recodified from 15A NCAC 3N .0004 Eff. May 1, 1997;  
Amended Eff. May 1, 1997.*

**15A NCAC 03N .0105 PROHIBITED GEAR, SECONDARY NURSERY AREAS**

- (a) It is unlawful to use trawl nets for any purpose in any of the permanent secondary nursery areas designated in 15A NCAC 03R .0104.
- (b) It is unlawful to use trawl nets for any purpose in any of the special secondary nursery areas designated in 15A NCAC 03R .0105, except that the Fisheries Director, may, by proclamation, open any or all of the special secondary nursery areas, or any portion thereof, listed in 15A NCAC 03R .0105 to shrimp or crab trawling from August 16 through May 14 subject to the provisions of 15A NCAC 03L .0100 and .0200.

*History Note:* Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;  
 Eff. January 1, 1991;  
 Amended Eff. September 1, 1991;  
 Recodified from 15A NCAC 03N .0005 Eff. May 1, 1997;  
 Amended Eff. August 1, 2004; May 1, 1997.

**15A NCAC 03N .0106 ANADROMOUS FISH SPAWNING AREA BOUNDARIES**

- (a) Anadromous fish spawning areas are defined in 15A NCAC 03I .0101 and designated in 15A NCAC 03R .0115.
- (b) Anadromous fish spawning areas described in 15A NCAC 03R .0115 encompass all waters, including tributaries from the described line in the direction indicated in Rule up to the headwaters of the waterbody or Inland-Coastal boundary lines, whichever area is first encountered and except when:
- (1) otherwise specified by 15A NCAC 03R .0115; or
  - (2) the waterbody is impassable to fish migration due to manmade obstructions such as dams and causeways.

*History Note:* Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;  
 Eff. December 1, 2007;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

**SUBCHAPTER 030 – LICENSES, LEASES, FRANCHISES, AND PERMITS****SECTION .0100 – LICENSES****15A NCAC 030 .0101 PROCEDURES AND REQUIREMENTS TO OBTAIN LICENSES, ENDORSEMENTS AND COMMERCIAL FISHING VESSEL REGISTRATIONS**

- (a) To obtain any Marine Fisheries licenses, endorsements, commercial fishing vessel registrations, except Recreational Fishing Tournament Licenses to Sell Fish and Land or Sell Licenses, the following information is required for the application by the licensee, a responsible party, or person holding a power of attorney:
- (1) Full name, physical address, mailing address, date of birth, and signature of the licensee on the application. If the licensee is not appearing before a license agent or a representative of the Division, the licensee's signature on the application shall be notarized;
  - (2) Current picture identification of licensee or responsible party. Acceptable forms of picture identification are driver's license, state identification card, military identification card, resident alien card (green card), or passport; or if purchased by mail, a copy thereof;
  - (3) Certification that the applicant does not have four or more marine or estuarine resource violations during the previous three years;
  - (4) Valid documentation papers or current motor boat registration, or copy thereof when purchasing a commercial fishing vessel registration. If an application for transfer of documentation is pending, a copy of the pending application and a notarized bill of sale may be submitted;
  - (5) Current articles of incorporation and a current list of corporate officers when purchasing a license or commercial fishing vessel registration in a corporate name. In the case of incorporation of an individual fishing vessel, the name of the master of that vessel shall also be specified. The responsible party shall notify the Morehead City Office of the Division of Marine Fisheries within five days of change of the master specified for that vessel;
  - (6) An affirmation of liability insurance and that the operator is knowledgeable of United States Coast Guard (USCG) safety requirements for the vessel(s) used in the operation in accordance with G.S. 113-168.6 when purchasing a commercial fishing vessel registration with a for-hire endorsement.
  - (7) If a partnership is established by a written partnership agreement, a current copy of such agreement shall be provided when purchasing a license, endorsement, or commercial fishing vessel registration in a partnership name;
  - (8) For nonresidents, certification of the state of residency;
  - (9) In addition to the information required in G.S. 113-169.4, linear length of pier when purchasing an Ocean Fishing Pier License;

- (10) In addition to the information required in G.S. 113-171.1, current aircraft registration and list of operator(s) when purchasing a Spotter Plane License;
- (11) In addition, for fish dealers licenses, the physical address of the established location where business is conducted and, if different, the address where records are kept;
- (12) When purchasing a Fish Dealer License with clam or oyster categories or a consolidated license, the applicant shall provide valid certification as a North Carolina certified shellfish dealer;
- (13) In addition, for the Blanket For-Hire Captain's Coastal Recreational Fishing License (CRFL), the applicant shall provide a valid certification from the USCG that allows carrying six or fewer passengers or a certification from the USCG that allows carrying more than six passengers; and
- (14) In addition, for the Blanket For-Hire Vessel CRFL or the Non-Blanket For-Hire Vessel License, valid documentation papers or current motor boat registration or copies thereof for the vessel engaged as for-hire. If an application for transfer of documentation is pending, a copy of the pending application and a notarized bill of sale may be submitted.

(b) License to Land Flounder from the Atlantic Ocean.

- (1) To qualify for a License to Land Flounder from the Atlantic Ocean, the applicant shall:
  - (A) have landed in North Carolina at least 1,000 pounds of flounder from a single vessel each year from the Atlantic Ocean during any two of the 1992-93, 1993-94, 1994-95 license years for which the person had a vessel that was licensed to land in North Carolina; and
  - (B) have been licensed under G.S. 113-152 or 113-153 during any two of the 1992-93, 1993-94, or 1994-95 license years; and
  - (C) hold a valid Standard or Retired Standard Commercial Fishing License or valid Land or Sell License.
- (2) It is lawful for a person to hold Licenses to Land Flounder from the Atlantic Ocean equal to the number of vessels that he owns that individually met the eligibility requirements of Parts (b)(1)(A) and (b)(1)(B) of this Rule.
- (3) The License to Land Flounder from the Atlantic Ocean is only valid when used on the vessel specified at the time of license issuance.
- (4) At the time of issuance, the applicant for the License to Land Flounder from the Atlantic Ocean shall specify the name of the master of the vessel for each License to Land Flounder from the Atlantic Ocean issued.
- (5) The holder of the License to Land Flounder from the Atlantic Ocean shall notify the Morehead Office of the Division of Marine Fisheries within five days of change as to the master identified on the license.
- (6) Licenses to Land Flounder from the Atlantic Ocean are issued for the current license year and expire on June 30.

(c) To obtain a Recreational Fishing Tournament License to Sell Fish, the tournament organizer shall apply with the Division of Marine Fisheries at least 30 days prior to the starting date of the tournament with the following required information:

- (1) Full name, physical address, mailing address, date of birth, signature of the tournament organizer, name of tournament, and dates of tournament on the license application. If the licensee is not appearing before a representative of the Division, the licensee's signature shall be notarized on the application.
- (2) Current picture identification of tournament organizer. Acceptable forms of picture identification are driver's license, state identification card, military identification card, resident alien card (green card), or passport; or if purchased by mail, a copy thereof.

(d) To obtain a Land or Sell License, the following information is required for a proper application:

- (1) Full name, physical address, mailing address, date of birth, and signature of the responsible party or master for the vessel on the license application. If the licensee is not appearing before a representative of the Division, the licensee's signature on the application shall be notarized on the application;
- (2) Current picture identification of responsible party or master. Acceptable forms of picture identification are driver's license, state identification card, military identification card, resident alien card (green card), or passport; or if applying by mail, a copy thereof;
- (3) Valid documentation papers or current motor boat registration or copy thereof when purchasing a commercial fishing vessel registration. If an application for transfer of documentation is pending, a copy of the pending application and a notarized bill of sale may be submitted.

Fees shall be based on the vessel's homeport as it appears on the U.S. Coast Guard documentation papers or the State in which the vessel is registered, in accordance with G.S. 113-169.5.

(e) Proof of residency in North Carolina for:

- (1) Standard Commercial Fishing License or Retired Standard Commercial Fishing License shall require a notarized certification from the applicant that the applicant is a resident of the State of North Carolina as defined by G.S. 113-130(4); and

- (A) a notarized certification from the applicant that a North Carolina State Income Tax Return was filed for the previous calendar or tax year as a North Carolina resident;
  - (B) a notarized certification that the applicant was not required to file a North Carolina State Income Tax Return for the previous calendar or tax year; or
  - (C) military identification, military dependent identification and permanent change of station orders or assignment orders substantiating individual's active duty assignment at a military facility in North Carolina.
- (2) All other types of licenses:
- (A) North Carolina voter registration card; or
  - (B) Current North Carolina Driver's License; or
  - (C) Current North Carolina Certificate of Domicile; or
  - (D) Current North Carolina Identification Card issued by the North Carolina Division of Motor Vehicles; or
  - (E) Military identification, military dependent identification and permanent change of station orders or assignment orders substantiating individual's active duty assignment at a military facility in North Carolina.
- (f) Applications submitted without complete and required information shall not be processed until all required information has been submitted. Incomplete applications shall be returned to the applicant with deficiency in the application so noted.
- (g) It is unlawful for a license or registration holder to fail to notify the Division of Marine Fisheries within 30 days of a change of name or address, in accordance with G.S. 113-169.2.
- (h) Licenses are available at Offices of the Division or by mail from the Morehead City Office, unless otherwise specified. In addition, Recreational Commercial Gear Licenses are available at Wildlife Service Agents who have been designated as agents of the Department.
- (i) To renew any Marine Fisheries licenses, endorsements, and commercial fishing vessel registration, except Recreational Commercial Gear Licenses, the following is required for the renewal application by the licensee, a responsible party, or person holding a power of attorney;
- (1) The information required in Subparagraphs (a)(4), (a)(5), and (a)(6) of this Rule are only required if a change has occurred since the last issuance of license, endorsement, or commercial fishing vessel registration.
  - (2) Certification that articles of incorporation and list of corporate officers, if incorporated, written partnership agreement, if written partnership, or documentation papers or motor boat registration previously provided for initial license purchase are still valid and current for renewal.
  - (3) Current and valid state driver's license or state identification picture identification numbers and expiration dates shall be verified on mail license renewal applications or any other electronic license renewal process, otherwise the licensee shall provide a photocopy for renewal by mail or visit a Division License Office and present a current and valid picture identification pursuant to Subparagraph (a)(2) of this Rule.
  - (4) The licensee's or responsible party's signature on the application shall certify all information as true and accurate. Notarization of signature on renewal applications shall not be required.
  - (5) The Division of Marine Fisheries may require current copies of documentation for licenses, endorsements, or commercial fishing vessel registration on renewal when necessary to verify inconsistent information or the information cannot be verified by independent sources.
  - (6) If the linear length of the pier has not changed for the Ocean Fishing Pier License renewal, the responsible party shall certify that the length is accurate; otherwise, a Marine Patrol Officer's signature is required to certify the linear length before the license can be renewed.
  - (7) Certification that shellfish dealer certification by North Carolina previously provided for issuance of Fish Dealer License with clam or oyster categories or consolidated license is still valid and current for renewal.

*History Note: Authority G.S. 113-134; 113-168; 113-168.1-6; 113-169; 113-169.2-5; 113-171.1; 113-174.3; 143B-289.52;*  
*Eff. January 1, 1991;*  
*Amended Eff. July 1, 1997; March 1, 1994;*  
*Temporary Amendment Eff. July 1, 1999;*  
*Amended Eff. August 1, 2000;*  
*Temporary Amendment Eff. April 1, 2001;*  
*Amended Eff. May 1, 2015; July 1, 2008; December 1, 2006; August 1, 2004; August 1, 2002.*

**15A NCAC 030 .0102 RECREATIONAL FISHING TOURNAMENT LICENSE TO SELL FISH**

- (a) It is unlawful for anyone other than the holder of the Recreational Fishing Tournament License to Sell Fish to sell fish taken during a recreational fishing tournament.
- (b) Fish to be sold under the Recreational Fishing Tournament License to Sell Fish must be sold only to licensed fish dealers and shall comply with all applicable rules of the Marine Fisheries Commission (MFC) or provisions of proclamations issued by the Fisheries Director as authorized by the MFC.
- (c) It is unlawful for a licensed recreational fishing tournament organizer to fail to accurately and legibly complete and file within 30 days after the last day of the tournament a North Carolina Recreational Fishing Tournament Disposition of Proceeds from the Sale of Fish Form provided by the Division.

*History Note: Authority G.S. 113-134; 113-168.4; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1994;  
Temporary Amendment Eff. July 1, 1999;  
Amended Eff. December 1, 2006; August 1, 2000.*

**15A NCAC 030 .0103 AUXILIARY VESSELS**

- (a) Buy boats, run boats, purse boats or any other vessels used in conjunction with commercial fishing operations, except vessels without motors used in connection with other vessels with commercial fishing vessel registrations, shall have a commercial fishing vessel registration.
- (b) A person in command of a vessel that is auxiliary to a vessel with a commercial fishing vessel registration with a person aboard who holds a Standard Commercial Fishing License or a Retired Standard Commercial Fishing License engaged in a commercial fishing operation using a pound net, long-haul, beach seine or purse seine is exempt from the provisions of G.S. 113-168.2 (a1).

*History Note: Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.5; 113-168.6; 113-169; 143B-289.52;  
Eff. January 1, 1991;  
Temporary Amendment Eff. July 1, 1999;  
Amended Eff. August 1, 2000.*

**15A NCAC 030 .0104 COMMERCIAL UNLOADING OF FISH**

It is unlawful to unload fish from a vessel in North Carolina which has been engaged in a commercial fishing operation outside state waters without possessing a valid:

- (1) Standard or Retired Standard Commercial Fishing Licenses; or
- (2) Menhaden License for Nonresidents Without a Standard Commercial Fishing License; or
- (3) Shellfish License for North Carolina Residents without a Standard Commercial Fishing Licenses; or
- (4) Land or Sell License.

*History Note: Authority G.S. 113-168.1; 113-168.2; 113-168.4; 113-169; 113-169.5; 143B-289.52;  
Eff. January 1, 1991;  
Temporary Amendment Eff. July 1, 1999;  
Amended Eff. August 1, 2000.*

**15A NCAC 030 .0105 BAIT AND MUSSEL DEALERS**

- (a) Persons dealing in minnows, live shrimp, or both minnows and live shrimp for bait purposes, who are subject to licensing requirements under G.S. 113-169.3 are required to purchase only the license applicable to finfish dealers. A bona fide dealer in shrimp, licensed under the provisions of G.S. 113-169.3, may, however, deal in minnows as well as live shrimp for bait purposes, as an incident of his operations under his shrimp dealer's license.
- (b) Persons dealing in mussels who are subject to licensing requirements under the provisions of G.S. 113-169.3 are required to purchase only the license applicable to clam dealers and meet the shellfish dealer certification requirements in 15A NCAC 030 .0101(a)(11).

*History Note: Authority G.S. 113-134; 113-169.3; 143B-289.52;  
Eff. January 1, 1991;  
Temporary Amendment Eff. July 1, 1999;  
Amended Eff. August 1, 2004; August 1, 2000.*

**15A NCAC 030 .0106 DISPLAY OF LICENSES AND REGISTRATIONS**

(a) It shall be unlawful:

- (1) for any person to use a vessel required to be registered under the provisions of G.S. 113-168.6 in a commercial fishing operation without a current Commercial Fishing Vessel Registration decal mounted on an exterior surface so as to be plainly visible when viewed from the port side; and
  - (2) to display any Commercial Fishing Vessel Registration decal not issued for the vessel displaying it.
- (b) It shall be unlawful to fail to display a Fish Dealer License required by G.S. 113-169.3 or Ocean Fishing Pier License required by G.S. 113-169.4 in prominent public view in each location subject to licensing.
- (c) It shall be unlawful for any person licensed under G.S. 113-174.3 to fail to display a current for-hire vessel decal on the exterior surface of the vessel so as to be visible when viewed from the port side while engaged in for-hire recreational fishing.

*History Note:* Authority G.S. 113-134; 113-168.6; 113-169.3; 113-169.4; 113-174.1; 113-182; 143B-289.52; Eff. January 1, 1991;  
Temporary Amendment Eff. July 1, 1999;  
Amended Eff. May 1, 2015; December 1, 2006; August 1, 2000;  
Readopted Eff. April 1, 2019.

**15A NCAC 030 .0107 LOST LICENSE REPLACEMENT**

Lost licenses except Blanket Coastal Recreational Fishing Licenses, endorsements, and commercial fishing vessel registration decals may be replaced upon payment of a fee of ten dollars (\$10.00) or a fee equal to the initial cost of the license, endorsement, or commercial fishing vessel registration, whichever is less. The replacement fee for the Blanket Coastal Recreational Fishing Licenses is five dollars (\$5.00).

*History Note:* Authority G.S. 113-134; 113-168.1; 113-168.6; 113-169.4; 113-173; 113-174.1; 143B-289.52; Eff. January 1, 1991;  
Temporary Amendment Eff. July 1, 1999;  
Amended Eff. December 1, 2006; August 1, 2000.

**15A NCAC 030 .0108 LICENSE TRANSFERS**

(a) Licenses to Land Flounder from the Atlantic Ocean may only be transferred:

- (1) with the transfer of the ownership of a vessel that the licensee owns that individually met the eligibility requirements of 15A NCAC 30 .0101 (b) (1) (A) and (b) (1) (B) to the new owner of that vessel. Transfer of the License to Land Flounder from the Atlantic Ocean transfers all flounder landings from the Atlantic Ocean associated with that vessel; or
  - (2) by the owner of a vessel to another vessel under the same ownership.
- Any transfer of license under this Paragraph may only be processed through the Division of Marine Fisheries Morehead City Office and no transfer is effective until approved and processed by the Division.

(b) Commercial Fishing Vessel Registration Transfer. When transferring ownership of a vessel bearing a current commercial fishing vessel registration, the new owner shall follow the requirements in 15A NCAC 030 .0101 and pay a replacement fee of ten dollars (\$10.00) for a replacement commercial fishing vessel registration. The new owner must submit a form provided by the Division with the signatures of the former licensee and the signature of the new licensee notarized.

(c) Standard or Retired Standard Commercial Fishing License transfers:

- (1) A Standard or Retired Standard Commercial Fishing License may only be transferred if both the transferor and the transferee have no current suspensions or revocations of any Marine Fisheries license privileges.
- (2) At the time of the transfer of a Standard or Retired Standard Commercial Fishing License, the transferor must indicate the retainment or transfer of the landings history associated with that Standard or Retired Standard Commercial Fishing License. The transferor may retain a landings history only if the transferor holds an additional Standard or Retired Standard Commercial Fishing License. Transfer of a landings history is all or none.
- (3) To transfer a Standard or Retired Standard Commercial Fishing License, the following information is required:
  - (A) information on the transferee as set out in 15A NCAC 030 .0101;
  - (B) notarization of the current license holder's and the transferee's signatures on a transfer form provided by the Division;
  - (C) when the transferee is a non-resident, a written certified statement from the applicant listing any violations involving marine and estuarine resources during the previous three years;

- (D) when the transferor is retiring from commercial fishing, the transferor must submit evidence showing that such retirement has in fact occurred, for example, evidence of the transfer of all licensee's Standard Commercial Fishing Licenses, sale of all the licensee's registered vessels, or discontinuation of any active involvement in commercial fishing.

Properly completed transfer forms must be returned to Division Offices by mail or in person.

- (4) The Standard or Retired Standard Commercial Fishing License which is being transferred must be surrendered to the Division at the time of the transfer application.
- (5) Fees:
  - (A) Transferee must pay a replacement fee of ten dollars (\$10.00).
  - (B) Transferee must pay the differences in fees as specified in G.S. 113-168.2 (e) or G.S. 113-168.3 (b) when the transferee who is a non-resident is being transferred a resident Standard or Retired Standard Commercial Fishing License.
  - (C) Transferee must pay the differences in fees as specified in G.S. 113-168.2 (e) when the license to be transferred is a Retired Standard Commercial Fishing License and the transferee is less than 65 years old.
- (6) Transfer of Standard or Retired Standard Commercial Fishing License for Deceased Licensees:
  - (A) When the deceased licensee's immediate surviving family member(s) is eligible to hold the deceased's Standard Commercial Fishing Licenses or Retired Standard Commercial Fishing License, the Administrator/Executor must give written notification within six months after the Administrator/Executor qualifies under G. S. 28A to the Morehead City Office of the Division of Marine Fisheries of the request to transfer the deceased's license to the estate Administrator/Executor.
  - (B) A transfer to the Administrator/Executor shall be made according to the provisions of Subparagraphs (c (2) - (c) (4) of this Rule. The Administrator/Executor must provide a copy of the deceased licensee's death certificate, a copy of the certificate of administration and a list of eligible immediate family members to the Morehead City Office of the Division of Marine Fisheries.
  - (C) The Administrator/Executor may only transfer a license in the Administrator/Executor name on behalf of the estate to a eligible surviving family member. The surviving family member transferee may only transfer the license to a third party purchaser of the deceased licensee's fishing vessel. Transfers shall be made according to the provisions of Subparagraphs (c) 2 - (c) (4) of this Rule.

(d) Transfer forms submitted without complete and required information shall be deemed incomplete and will not be considered further until resubmitted with all required information.

(e) It is unlawful for a person to accept transfer of a Standard or Retired Standard Commercial Fishing License for which they are ineligible.

*History Note: Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.3; 113-168.6; 143B-289.52; Eff. January 1, 1991; Amended Eff. March 1, 1994; Temporary Amendment Eff. August 1, 1999; July 1, 1999; Amended Eff. August 1, 2000.*

**15A NCAC 030 .0109 ASSIGNMENT OF SCFL**

(a) The Division of Marine Fisheries shall provide assignment forms upon issuance of the Standard Commercial Fishing License. Assignment must be made on the Division assignment forms. On the assignment form, the Standard Commercial Fishing License holder must designate what, if any, endorsements are included in the assignment. Endorsements may not be assigned independent of the Standard Commercial Fishing License. It is unlawful for the Standard Commercial Fishing License holder to fail to submit within five days the completed assignment form to any office of the Division in person or by mail to the Morehead City Division Office. An assignment is in effect from the date specified on the assignment form and when:

- (1) assignment form is properly completed;
- (2) signatures of the current license holder and the assignee are notarized; and
- (3) assignee has in their possession the original actual Standard Commercial Fishing License with endorsements of the current license holder.

(b) Assignments terminate when:

- (1) date specified on the assignment form is reached; or
- (2) licensee or assignee are determined ineligible for a license or assignment; or
- (3) Division receives a notarized statement from the current license holder stating a revised date for an earlier assignment termination; or

- (4) upon the licensee or assignee's death; or
- (5) the Standard Commercial Fishing License expires.

If the properly completed assignment form is not received by the Division within five days from the date it was signed, the assignment is null and void. For an extension of time for assignments, a new assignment form must be completed in accordance with Subparagraphs (a)(1) - (3) of this Rule.

(c) It is unlawful for an individual assigned a Standard Commercial Fishing License to fail to have available ready at hand for inspection all required documents as stated under G.S. 113-168.1. The assignee when involved in a commercial fishing operation must have the original actual Standard Commercial Fishing License and any assigned endorsements and a copy of the assignment form in their possession ready for inspection.

(d) All landings occurring during the time of the assignment shall be credited to the Standard Commercial Fishing License holder, not the assignee.

(e) It is unlawful to be assigned more than a single Standard Commercial Fishing License at any one time. It is unlawful to assign a Standard Commercial Fishing License to more than one individual at any one time. Assignments may only be made by the person issued the Standard Commercial Fishing License and may not be further assigned by assignees. Masters identified on the Standard Commercial Fishing Licenses of corporations consisting of an individual fishing vessel may not assign such licenses.

(f) It is unlawful for a person to accept assignment of a Standard Commercial Fishing License for which they are ineligible.

(g) Assignments submitted without complete and required information shall be deemed not in effect and shall not be considered further until resubmitted with all required information.

(h) It is unlawful for any assignee of a Standard Commercial Fishing License not to return the assignment and the Standard Commercial Fishing License with any assigned endorsements to the assignor of that license within five days of notice that the assignment has been terminated or a demand by the assignor to return the license.

*History Note: Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.5; 143B-289.52; Eff. January 1, 1991; Temporary Amendment Eff. October 2, 1999; July 1, 1999; Amended Eff. August 1, 2000.*

#### **15A NCAC 030 .0110 LICENSE REFUNDS**

All license fees are non-refundable except when licenses are issued by the Division in error.

*History Note: Authority G.S. 113-134; 113-168.1; 113-173; 143B-289.52; 147-84; 1993 (Regular Session 1994), c. 576, s. 3; Eff. March 1, 1995; Temporary Amendment Eff. July 1, 1999; Amended Eff. August 1, 2000.*

#### **15A NCAC 030 .0111 SURRENDER OF LICENSES**

(a) It is unlawful for any licensee to refuse to surrender to an agent of the Secretary all licenses, license receipts, endorsements, commercial fishing vessel registration or decals, and other forms and records relating to the license following service of notice of suspension or revocation of licenses in accordance with G.S. 113-171.

(b) It is unlawful for any person in custody or possession of any licenses, license receipt, endorsements, commercial fishing vessel registration or decals, and other documentation required to be surrendered to refuse to surrender same to an agent of the Secretary making such demand.

*History Note: Authority G.S. 113-134; 113-171; 143B-289.52; S.L. 2010-145; Temporary Adoption Eff. July 1, 1999; Eff. August 1, 2000; Amended Eff. October 1, 2012.*

#### **15A NCAC 030 .0112 FOR-HIRE LICENSE REQUIREMENTS**

(a) The license requirements for an operator of a vessel engaged in a for-hire operation are set forth in G.S. 113-174.3. Either the vessel owner or the for-hire vessel operator may seek to obtain the applicable for-hire vessel license. Only the vessel owner shall seek to obtain the applicable registration and endorsement required by G.S. 113-168.6. For the purpose of this Rule, "for-hire vessel operator" shall include the holder of a Blanket For-Hire Captain's Coastal Recreational Fishing License, Blanket For-Hire Vessel Coastal Recreational Fishing License, or Non-Blanket For-Hire Vessel License, as set forth in G.S. 113-174.3.

(b) It shall be unlawful for a for-hire vessel operator to operate without:

- (1) holding the United States Coast Guard certification required in Rule .0101(a) of this Section;
- (2) having a copy of the for-hire license in possession and ready at hand for inspection; and

- (3) having current picture identification in possession and ready at hand for inspection.
- (c) If requested by the Division of Marine Fisheries, it shall be unlawful for a for-hire vessel operator to fail to participate in and provide accurate information for biological sampling in accordance with 15A NCAC 03I .0113 and for survey programs administered by the Division.
- (d) Requirements for display of licenses and registrations for a vessel engaged in for-hire recreational fishing are set forth in Rule .0106 of this Section.

*History Note:* Authority G.S. 113-134; 113-168.6; 113-174.1; 113-174.3; 143B-289.52;  
Eff. July 1, 2008;  
Readopted Eff. April 1, 2019.

#### **15A NCAC 03O .0113 OCEAN FISHING PIER REPORTING REQUIREMENTS**

It is unlawful for the responsible party of the Ocean Fishing Pier License to fail to provide to the Division by the 10th of each month a daily count of anglers fishing from the licensed pier from the previous month, including a daily count of zero for days when anglers did not fish. The information shall be submitted on a paper form provided by the Division or via electronic mail to the electronic mail address provided at the time of license application.

*History Note:* Authority G.S. 113-134; 113-169.4; 113-174.1; 143B-289.52;  
Eff. April 1, 2011;  
Amended Eff. May 1, 2015.

#### **15A NCAC 03O .0114 SUSPENSION, REVOCATION, AND REISSUANCE OF LICENSES**

- (a) All commercial and recreational licenses issued under Article 14A, Article 14B, and Article 25A of Chapter 113 shall be subject to suspension and revocation.
- (b) A conviction resulting from being charged by an inspector under G.S. 14-32, 14-33, 14-72, or 14-399 shall be deemed a conviction for the purposes of license suspension or revocation.
- (c) Upon receipt of notice of a licensee's conviction as specified in G.S. 113-171 or a conviction as specified in Paragraph (b) of this Rule, the Fisheries Director shall determine whether it is a first, second, third, fourth, or subsequent conviction. Where several convictions result from a single transaction or occurrence, the convictions shall be treated as a single conviction for the purposes of license suspension or revocation. For a second conviction, the Fisheries Director shall suspend all licenses issued to the licensee for a period of 30 days; for a third conviction, the Fisheries Director shall suspend all licenses issued to the licensee for a period of 90 days; for a fourth or subsequent conviction, the Fisheries Director shall revoke all licenses issued to the licensee, except:
- (1) for a felony conviction under G.S. 14-399, the Fisheries Director shall suspend all licenses issued to the licensee for a period of one year;
  - (2) for a first conviction under G.S. 113-187(d)(1), the Fisheries Director shall suspend all licenses issued to the licensee for a period of one year; for a second or subsequent conviction under G.S. 113-187(d)(1), the Fisheries Director shall revoke all licenses issued to the licensee;
  - (3) for a conviction under G.S. 14-72, 113-208, 113-209, 113-268, or 113-269, the Fisheries Director shall revoke all licenses issued to the licensee; and
  - (4) for a conviction under G.S. 14-32 or 14-33, if the offense was committed against a marine fisheries inspector, the Fisheries Director shall revoke all licenses issued to the licensee and the former licensee shall not be eligible to apply for reinstatement of a revoked license or for any additional license authorized in Article 14A, Article 14B, or Article 25A of Chapter 113 for a period of two years.
- (d) After the Fisheries Director determines that a conviction requires a suspension or revocation of the licenses of a licensee, the Fisheries Director shall cause the licensee to be served with written notice of suspension or revocation. If the licensee is not an individual, the written notice shall be served upon any responsible individual affiliated with the corporation, partnership, or association. The notice of suspension or revocation shall be served by an inspector or other agent of the Department or by certified mail, shall state the ground upon which it is based, and shall take effect immediately upon service. The agent of the Fisheries Director making service shall collect all license certificates and plates and other forms or records relating to the license as directed by the Fisheries Director.
- (e) If a license has been suspended, the former licensee shall not be eligible to apply for reissuance of license or for any additional license authorized in Article 14A, Article 14B, or Article 25A of Chapter 113 during the suspension period. Licenses shall be returned to the licensee by the Fisheries Director or the Director's agents at the end of a period of suspension.
- (f) Where a license has been revoked, the former licensee shall not be eligible to apply for reinstatement of a revoked license or for any additional license authorized in Article 14A, Article 14B and Article 25A of Chapter 113 for a period of one year, except as provided in Subparagraph (c)(4) of this Rule. For a request for reinstatement following revocation, the former licensee shall demonstrate in the request that the licensee will conduct the operations for which the license is sought in accord with all applicable laws and rules, shall submit the request in writing, and shall send the request to the Fisheries

Director, Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557. Upon the application of an eligible former licensee after revocation, the Fisheries Director may issue one license sought but not another, as necessary to prevent the hazard of recurring violations of the law.

(g) A licensee shall not willfully evade the service prescribed in this Rule.

*History Note: Authority G.S. 113-168.1; 113-171; S.L. 2010-145;  
Eff. October 1, 2012;  
Amended Eff. May 1, 2017.*

## **SECTION .0200 – LEASES AND FRANCHISES**

NOTE: 15A NCAC 03O .0201 is subject to change consistent with Session Law 2019-37, Section 3.

### **15A NCAC 03O .0201 STANDARDS AND REQUIREMENTS FOR SHELLFISH BOTTOM LEASES AND FRANCHISES AND WATER COLUMN LEASES**

(a) All areas of the public bottom underlying Coastal Fishing Waters shall meet the following standards and requirements, in addition to the standards in G.S. 113-202, in order to be deemed suitable for leasing for shellfish cultivation purposes:

- (1) the proposed lease area shall not contain a "natural shellfish bed," as defined in G.S. 113-201.1, or have 10 bushels or more of shellfish per acre;
- (2) the proposed lease area shall not be closer than 100 feet to a developed shoreline, except no minimum setback is required when the area to be leased borders the applicant's property, the property of "riparian owners" as defined in G.S. 113-201.1 who have consented in a notarized statement, or is in an area bordered by undeveloped shoreline; and
- (3) the proposed lease area shall not be less than one-half acre and shall not exceed 10 acres.

(b) To be suitable for leasing for aquaculture purposes, water columns superjacent to leased bottom shall meet the standards in G.S. 113-202.1 and water columns superjacent to franchises recognized pursuant to G.S. 113-206 shall meet the standards in G.S. 113-202.2.

(c) Franchises recognized pursuant to G.S. 113-206 and shellfish bottom leases shall be terminated unless they meet the following requirements, in addition to the standards in and as allowed by G.S. 113-202:

- (1) they produce and market 10 bushels of shellfish per acre per year; and
- (2) they are planted with 25 bushels of seed shellfish per acre per year or 50 bushels of cultch per acre per year, or a combination of cultch and seed shellfish where the percentage of required cultch planted and the percentage of required seed shellfish planted totals at least 100 percent.

(d) Water column leases shall be terminated unless they meet the following requirements, in addition to the standards in and as allowed by G.S. 113-202.1 and 113-202.2:

- (1) they produce and market 40 bushels of shellfish per acre per year; or
- (2) the underlying bottom is planted with 100 bushels of cultch or seed shellfish per acre per year.

(e) The following standards shall be applied to determine compliance with Paragraphs (c) and (d) of this Rule:

- (1) Only shellfish marketed, planted, or produced as defined in 15A NCAC 03I .0101 as the fishing activities "shellfish marketing from leases and franchises," "shellfish planting effort on leases and franchises," or "shellfish production on leases and franchises" shall be included in the lease and franchise reports required by Rule .0207 of this Section.
- (2) If more than one lease or franchise is used in the production of shellfish, one of the leases or franchises used in the production of the shellfish shall be designated as the producing lease or franchise for those shellfish. Each bushel of shellfish shall be produced by only one lease or franchise. Shellfish transplanted between leases or franchises shall be credited as planting effort on only one lease or franchise.
- (3) Production and marketing information and planting effort information shall be compiled and averaged separately to assess compliance with the requirements of this Rule. The lease or franchise shall meet both the production requirement and the planting effort requirement within the dates set forth in G.S. 113-202.1 and 202.2 to be deemed in compliance for shellfish bottom leases. The lease or franchise shall meet either the production requirement or the planting effort requirement within the dates set forth in G.S. 113-202.1 and 202.2 to be deemed in compliance for water column leases.
- (4) All bushel measurements shall be in standard U.S. bushels.
- (5) In determining production and marketing averages and planting effort averages for information not reported in bushel measurements, the following conversion factors shall be used:
  - (A) 300 oysters, 400 clams, or 400 scallops equal one bushel; and
  - (B) 40 pounds of scallop shell, 60 pounds of oyster shell, 75 pounds of clam shell, or 90 pounds of fossil stone equal one bushel.

- (6) Production and marketing rate averages shall be computed irrespective of transfer of the lease or franchise. The production and marketing rates shall be averaged for the following situations using the time periods described:
    - (A) for an initial bottom lease or franchise, over the consecutive full calendar years remaining on the bottom lease or franchise contract after December 31 following the second anniversary of the initial bottom lease or franchise;
    - (B) for a renewal bottom lease or franchise, over the consecutive full calendar years beginning January 1 of the final year of the previous bottom lease or franchise term and ending December 31 of the final year of the current bottom lease or franchise contract;
    - (C) for a water column lease, over the first five-year period for an initial water column lease and over the most recent five-year period thereafter for a renewal water column lease; or
    - (D) for a bottom lease or franchise issued an extension period under Rule .0208 of this Section, over the most recent five-year period.
  - (7) In the event that a portion of an existing lease or franchise is obtained by a new owner, the production history for the portion obtained shall be a percentage of the originating lease or franchise production equal to the percentage of the area of lease or franchise site obtained to the area of the originating lease or franchise.
- (f) Persons holding five or more acres under all shellfish bottom leases and franchises combined shall meet the requirements established in Paragraph (c) of this Rule before submitting an application for additional shellfish lease acreage to the Division of Marine Fisheries.

*History Note: Authority G.S. 113-134; 113-201; 113-202; 113-202.1; 113-202.2; 113-206; 143B-289.52; Eff. January 1, 1991; Amended Eff. May 1, 1997; March 1, 1995; March 1, 1994; September 1, 1991; Temporary Amendment Eff. October 1, 2001; Amended Eff. May 1, 2017; October 1, 2008; April 1, 2003.*

#### **15A NCAC 030 .0202 SHELLFISH BOTTOM AND WATER COLUMN LEASE APPLICATIONS**

- (a) Application forms are available from the Division's office headquarters at 3441 Arendell Street, Morehead City, NC 28557 for persons desiring to apply for shellfish bottom and water column leases. Each application shall be accompanied by a map or diagram prepared at the applicant's expense including an inset vicinity map showing the location of the proposed lease with detail sufficient to permit on-site identification and must meet the information requirements pursuant to G.S. 113-202(d).
- (b) As a part of the application, the applicant shall submit a management plan for the area to be leased on a form provided by the Division which meets the following standards:
  - (1) States the methods through which the applicant will cultivate and produce shellfish consistent with the minimum requirements set forth in 15A NCAC 030 .0201;
  - (2) States the time intervals during which various phases of the cultivation and production plan will be achieved;
  - (3) States the materials and techniques that will be utilized in management of the lease;
  - (4) Forecasts the results expected to be achieved by the management activities; and
  - (5) Describes the productivity of any other leases or franchises held by the applicant.
- (c) The completed application, map or diagram, and management plan for the requested lease shall be accompanied by the non-refundable filing fee set forth in G.S. 113-202(d1). An incomplete application shall be returned and not considered further until re-submitted complete with all required information.
- (d) Applicants and transferees not currently holding a shellfish cultivation lease, and applicants and transferees holding one or more shellfish cultivation leases which are not meeting production requirements, shall complete and submit an examination, with a minimum of 70 percent correct answers, based on an educational package provided by the Division of Marine Fisheries. The examination shall demonstrate the applicant's knowledge of:
  - (1) the shellfish lease application process;
  - (2) shellfish lease planting and production requirements;
  - (3) lease marking requirements;
  - (4) lease fees;
  - (5) shellfish harvest area closures due to pollution;
  - (6) safe handling practices;
  - (7) lease contracts and renewals;
  - (8) lease termination criteria; and
  - (9) shellfish cultivation techniques.
- (e) After an application is deemed to have met all requirements and is accepted by the Division, the applicant shall identify the area for which a lease is requested with stakes at each corner in accordance with 15A NCAC 030 .0204(a)(1)(A). The

applicant shall attach to each stake a sign, provided by the Division containing the name of the applicant, the date the application was filed, and the estimated acres.

*History Note:* Authority G.S. 113-134; 113-201; 113-202; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. April 1, 2011; September 1, 2005; May 1, 1997; September 1, 1991.

#### **15A NCAC 030 .0203 SHELLFISH LEASE APPLICATION PROCESSING**

(a) Upon acceptance of a completed application, the proposed lease area shall be inspected by agents of the Division. Proposed lease areas inconsistent with applicable standards contained or referenced in 15A NCAC 30 .0201 shall result in the return of applications for amendment to remove the inconsistencies. If the boundaries of the proposed lease area are modified, the stakes identifying such areas shall be relocated accordingly by the applicant. The failure of applicants to amend applications or modify lease area identification, when required, shall result in denial of such applications.

(b) If the initial or amended lease application is deemed consistent with all applicable requirements, the Secretary or his designee shall notify the applicant and publish notices of intention to lease in accordance with standards in G.S. 113-202(f).

(c) The Secretary shall consider the lease application, the Division's proposed lease area analysis, and public comments, and may in his discretion lease or decline to lease the proposed lease area or any part thereof. Special conditions may be imposed so that leases may be issued which would otherwise be denied. Should an applicant decide not to accept any special condition imposed on the lease by the Secretary, the application shall be considered denied.

(d) Upon approval of leases by the Secretary, applicants shall mark the shellfish bottom leases in accordance with 15A NCAC 30 .0204(a)(1), water column leases in accordance with 15A NCAC 30 .0204(a)(2), and shall within 90 days submit to the Division acceptable surveys of the areas approved for leasing except that a water column lease which entirely covers a shellfish bottom lease or franchise with an accepted survey on file does not require another survey. Such surveys shall be made at the expense of applicants and must meet the following standards:

(1) Surveys and maps shall meet all the requirements of 21 NCAC 56 .1600, Standards of Practice for Land Surveying in North Carolina, which is hereby incorporated by reference including subsequent amendments and editions. This material is available for inspection and copies may be obtained from the Marine Fisheries Division, Marine Fisheries Building, 3441 Arendell St., P.O. Box 769, Morehead City, North Carolina 28557, at no cost.

(2) Maps shall bear the certificate:

"I \_\_\_\_\_ certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision); that the error of closure as calculated by latitudes and departures is 1: \_\_\_\_\_, that the area is \_\_\_\_\_ acres. Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ AD \_\_\_\_\_."

\_\_\_\_\_  
Surveyor or Engineer

(3) The phrase "other appropriate natural monuments or landmarks" in 21 NCAC 56 .1604(e)(9) shall include bridges, roads, highways, intersections, publicly maintained aids to navigation, houses and other permanent buildings, radio, telephone, TV, and water towers; docks; piers, and bulkheads; but does not include stakes marking the boundaries of adjoining leases, points of marsh, junctions of streams, or other landmarks which are particularly subject to change through natural processes, storms, or the effect of man.

(4) A written description of the survey suitable for official documents shall be provided with the survey.

(5) Locations of all corner markers in latitude and longitude shall be provided with the survey and presented in an eight digit format. The relative accuracy of the corner marker locations shall be equal to or less than two meters. Information on the method of measurement, make and model of equipment, and coordinate system used to determine the latitude and longitude shall be included.

(e) Proposed shellfish bottom lease areas remain public bottom until a lease contract has been executed by the Secretary.

(f) Proposed water column lease areas superjacent to shellfish bottom leases and recognized perpetual franchises remain public water until a lease contract has been executed by the Secretary.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. October 1, 2008; March 1, 1994; September 1, 1991.

#### **15A NCAC 030 .0204 MARKING SHELLFISH LEASES AND FRANCHISES**

(a) All shellfish bottom leases, franchises, and water column leases shall be marked as follows:

(1) Shellfish bottom leases and franchises shall be marked by:

- (A) Stakes of wood or plastic material at least three inches in diameter at the water level and extending at least four feet above the high water mark. The stakes shall be firmly jettied or driven into the bottom at each corner.
  - (B) Signs displaying the number of the lease or franchise and the name of the owner printed in letters at least three inches high must be firmly attached to each corner stake.
  - (C) Supplementary stakes of wood or plastic material, not farther apart than 50 yards or closer together than 50 feet and extending at least four feet above the high water mark, must be placed along each boundary, except when such would interfere with the use of traditional navigation channels.
- (2) Water column leases shall be marked by anchoring two yellow buoys, meeting the material and minimum size requirements specified in 15A NCAC 3J .0103(b) at each corner of the area or by larger buoys, posts and signs as identified and approved by the Secretary in the Management Plan.
- (b) Stakes marking areas of management within shellfish bottom leases or franchises, as approved in the management plan, must conform to Subparagraph (a)(1)(C) of this Rule and may not exceed one for each 1,200 square feet. Marking at concentrations of stakes greater than one for each 1,200 square feet constitutes use of the water column and a water column lease is required in accordance with G.S. 113-202.1 or G.S. 113-202.2.
- (c) All areas claimed in filings made pursuant to G.S. 113-205 as deeded bottoms through oyster grants issued by the county clerk of court or as private bottoms through perpetual franchises issued by the Shellfish Commission shall be marked in accordance with Paragraph (a) of this Rule, except the sign shall include the number of the franchise rather than the number of the lease. However, claimed areas not being managed and cultivated shall not be marked.
- (d) It is unlawful to fail to remove all stakes, signs, and markers within 30 days of receipt of notice from the Secretary pursuant to Departmental Rule 15A NCAC 1G .0207 that a G.S. 113-205 claim to a marked area has been denied.
- (e) It is unlawful to exclude or attempt to exclude the public from allowable public trust use of navigable waters on shellfish leases and franchises including, but not limited to, fishing, hunting, swimming, wading and navigation.
- (f) The Division has no duty to protect any shellfish bottom lease, franchise, or water column lease not marked in accordance with Paragraph (a) of this Rule.

*History Note:* Authority G.S. 76-40; 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; 143B-289.52; Eff. January 1, 1991; Amended Eff. September 1, 1997; March 1, 1994; October 1, 1992; September 1, 1991.

**15A NCAC 030 .0205 LEASE RENEWAL**

- (a) Lease renewal applications shall be provided to lessees as follows:
- (1) For shellfish bottom leases, renewal applications shall be provided in January of the year of expiration.
  - (2) For water column leases, renewal applications shall be provided at least 90 days prior to expiration dates.
- (b) Lease renewal applications shall be accompanied by management plans meeting the requirements of 15A NCAC 030 .0202(b). The non-refundable filing fee set forth in G.S. 113-202(j) shall accompany each renewal application for shellfish bottom leases.
- (c) A survey for renewal leases shall be required at the applicant's expense when the Division determines that the area leased to the renewal applicant is inconsistent with the survey on file.
- (d) When it is determined, after due notice to the lessee, and after opportunity for the lessee to be heard, that the lessee has not complied with the requirements of this Section or that the lease as issued is inconsistent with this Section, the Secretary may decline to renew, at the end of the current terms, any shellfish bottom or water column lease. The lessee may appeal the Secretary's decision by initiating a contested case as outlined in 15A NCAC 03P .0102.
- (e) Pursuant to G.S. 113-202(a)(6), the Secretary is not authorized to recommend approval of renewal of a shellfish lease in an area closed to shellfishing by reason of pollution. Shellfish leases partially closed due to pollution must be amended to exclude the area closed to shellfishing prior to renewal. For purposes of lease renewal determinations, an area shall be considered closed to shellfish harvest by reason of pollution when the area has been classified by the State Health Director as prohibited or has been closed for more than 50 percent of the days during the final four years prior to renewal except shellfish leases in areas which have been closed for more than 50 percent of the days during the final four years prior to renewal and continue to meet established production requirements by sale of shellfish through relay periods or other depuration methods shall not be considered closed due to pollution for renewal purposes.
- (f) If the Secretary declines to renew a lease that has been determined to be inconsistent with the standards of this Section, the Secretary, with the agreement of the lessee, may issue a renewal lease for all or part of the area previously leased to the lessee that contains conditions necessary to conform the renewal lease to the requirements of this Section for new leases.

*History Note:* Authority G.S. 113-134; 113-201; 113-202; 113-202.1; 113-202.2; 143B-289.52; Eff. January 1, 1991;

*Amended Eff. September 1, 2005; May 1, 1997; March 1, 1995; March 1, 1994; October 1, 1992; September 1, 1991.*

#### **15A NCAC 030 .0206 LEASE PROTEST**

(a) Should any person object to the granting of any initial or renewal lease, he has the right to protest its issuance prior to the granting of the lease by the Secretary. The protestant may file a sworn statement of protest with the Division stating the grounds for protest. The Secretary shall notify both the prospective lessee and the protestant upon receipt of a protest, and shall conduct such investigation as he deems necessary, and shall notify both parties of the outcome of his investigation. Protestants or applicants receiving an adverse recommendation on the lease application from the Secretary may appeal this decision as outlined in G.S. 113-202(g).

(b) Any member of the public shall be allowed an opportunity to comment on any lease application during the public hearing at which the lease application is being considered by the Secretary.

*History Note: Authority G.S. 113-134; 113-201; 113-202; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1994; September 1, 1991.*

#### **15A NCAC 030 .0207 PRODUCTION REPORTS**

(a) The owners of shellfish leases and franchises shall provide annual production reports to the Division showing the amounts of material planted and harvested in connection with management for commercial production. Reporting forms will be provided to owners of shellfish bottom leases and recognized franchises during the period that annual notices of rent due are provided to owners of shellfish bottom leases in accordance with G.S. 113-202(j). Reporting forms will be provided to owners of water column leases prior to each annual anniversary date.

(b) Failure to furnish the required production report, correct and in detail requested, or filing a report containing false information, can constitute grounds for termination.

*History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. September 1, 1991.*

#### **15A NCAC 030 .0208 TERMINATION OF SHELLFISH BOTTOM LEASES AND FRANCHISES AND WATER COLUMN LEASES**

(a) Procedures for termination of shellfish leaseholds are provided in G.S. 113-202. An appeal of the Secretary's decision to terminate a leasehold is governed by G.S. 150B-23.

(b) Substantial breach of compliance with the provisions of rules of the Marine Fisheries Commission governing use of the leasehold includes the following, except as provided in Paragraph (c) of this Rule:

- (1) failure to meet shellfish production and marketing requirements for bottom leases or franchises in accordance with Rule .0201 of this Section;
- (2) failure to maintain a planting effort of cultch or seed shellfish for bottom leases or franchises in accordance with Rule .0201 of this Section;
- (3) failure either to meet shellfish production and marketing requirements or to maintain a planting effort of cultch or seed shellfish for water column leases in accordance with Rule .0201 of this Section;
- (4) the Fisheries Director has cause to believe the holder of private shellfish bottom or franchise rights has encroached or usurped the legal rights of the public to access public trust resources in navigable waters, in accordance with G.S. 113-205 and Rule .0204 of this Section; and
- (5) the Attorney General initiates action for the purpose of vacating or annulling letters patent granted by the State, in accordance with G.S. 146-63.

(c) Consistent with G.S. 113-202(11) and 113-201(b), a leaseholder that failed to meet requirements in G.S. 113-202, 15A NCAC 030 .0201 or this Rule may be granted a single extension period of no more than two years per contract period upon a showing of hardship by written notice to the Fisheries Director prior to the expiration of the lease term that one of the following occurrences caused or will cause the leaseholder to fail to meet lease requirements:

- (1) death, illness, or incapacity of the leaseholder or his immediate family as defined in G.S. 113-168 that prevented or will prevent the leaseholder from working the lease;
- (2) damage to the lease from hurricanes, tropical storms, or other severe weather events recognized by the National Weather Service;
- (3) shellfish mortality caused by disease, natural predators, or parasites; or
- (4) damage to the lease from a manmade disaster that triggers a state emergency declaration or federal emergency declaration.

(d) In the case of hardship as described in Subparagraph (c)(1) of this Rule, the notice shall state the name of the leaseholder or immediate family member and either the date of death or the date and nature of the illness or incapacity.

Written notice and supporting documentation shall be addressed to the Director of the Division of Marine Fisheries, 3441 Arendell St., P.O. Box 769, Morehead City, NC 28557.

*History Note:* Authority G.S. 113-134; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. May 1, 1997; March 1, 1995; March 1, 1994; October 1, 1992; September 1, 1991;  
Temporary Amendment Eff. January 1, 2002; October 1, 2001;  
Amended Eff. May 1, 2017; April 1, 2003.

#### **15A NCAC 030 .0209 TRANSFER OF INTEREST**

(a) Within 30 days after transfer of ownership of all or any portion of interest in a shellfish lease or franchise, the new owner shall notify the Division, and provide the number of the lease or franchise and the county in which it is located. Such notification shall be accompanied by a management plan prepared by the new owner in accordance with 15A NCAC 030 .0202(b).

(b) If the new owner obtains a portion of an existing shellfish bottom lease or franchise, it shall not contain less than one-half acre and the required notification to the Division shall be accompanied by a survey prepared in accordance with the standards in 15A NCAC 030 .0203(d).

(c) Within six months after transfer of ownership, the new owner shall complete shellfish cultivation lease training as specified in 15A NCAC 030 .0202(d).

(d) Water column leases are not transferrable except when the Secretary approves such transfer in accordance with G.S. 113-202.1(f) and G.S. 113-202.2(f).

(e) In the event the transferee involved in a lease is a nonresident, the Secretary must initiate termination proceedings.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. April 1, 2011; March 1, 1994; September 1, 1991.

#### **15A NCAC 030 .0210 SHELLFISH FRANCHISES**

(a) The resolution of claims filed under G.S. 113-205 is governed by standards in Departmental Rules 15A NCAC 1G .0200 and .0300. Following receipt of notification that a claim has a valid chain of title, the owner shall provide to the Division within 90 days a survey prepared in accordance with the standards in 15A NCAC 030 .0203(d). Failure to provide the required survey within the time period specified will result in denial of the claim.

(b) Acceptable management plans, prepared in accordance with the standards in 15A NCAC 030 .0202(b), shall be provided to the Division within 30 days following formal recognition of a valid chain of title and at ten-year intervals thereafter.

(c) The survey and management plan requirements in Paragraphs (a) and (b) of this Rule, and all other requirements and conditions of this Section affecting management of franchises, shall apply to all valid shellfish franchises recognized prior to September 1, 1989.

(d) Commercial production requirements for franchises shall be identical to that required for leases in 15A NCAC 030 .0201(c) averaged over the most recent three-year period after January 1 following the second anniversary of the dates of recognition of claims as valid shellfish franchises and continuing throughout the term of management plans required in Paragraph (b) of this Rule. Annual reporting of commercial production shall be submitted upon receipt of forms provided by the Division for that purpose.

*History Note:* Authority G.S. 113-134; 113-201; 113-202; 113-205; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. October 1, 2008; September 1, 1991.

#### **15A NCAC 030 .0211 PROTECTION OF PRIVATE SHELLFISH INTEREST**

It is unlawful to use any trawl net, long haul seine, swipe net, dredge, or mechanical method for clams or oysters on any shellfish lease or franchise unless it has been duly authorized by the Fisheries Director as provided in 15A NCAC 3K .0206 and .0303.

*History Note:* Authority G.S. 113-134; 113-182; 113-201;  
Eff. October 1, 1992;  
Amended Eff. August 1, 1998.

**SECTION .0300 – RECREATIONAL COMMERCIAL GEAR LICENSES**

**15A NCAC 030 .0301 ELIGIBILITY FOR RECREATIONAL COMMERCIAL GEAR LICENSES**

- (a) It is unlawful for any individual to hold more than one Recreational Commercial Gear License.  
 (b) Recreational Commercial Gear Licenses shall only be issued to individuals.

*History Note: Filed as a Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
 Authority G.S. 113-134; 113-170.4; 113-173; 113-221; 143B-289.52;  
 Eff. February 1, 1995;  
 Temporary Amendment Eff. July 1, 1999;  
 Amended Eff. August 1, 2000.*

**15A NCAC 030 .0302 AUTHORIZED GEAR**

(a) The following are the only commercial fishing gear authorized (including restrictions) for use under a valid Recreational Commercial Gear License:

- (1) One seine 30 feet or over in length but not greater than 100 feet with a mesh length less than 2 1/2 inches when deployed or retrieved without the use of a vessel or any other mechanical methods. A vessel may be used only to transport the seine;
- (2) One shrimp trawl with a headrope not exceeding 26 feet in length per vessel.
- (3) With or without a vessel, five eel, fish, shrimp, or crab pots in any combination, except only two pots of the five may be eel pots. Peeler pots are not authorized for recreational purposes;
- (4) One multiple hook or multiple bait trotline up to 100 feet in length;
- (5) Gill Nets:
  - (A) Not more than 100 yards of gill nets with a mesh length equal to or greater than 2 1/2 inches except as provided in (C) of this Subparagraph. Attendance is required at all times;
  - (B) Not more than 100 yards of gill nets with a mesh length equal to or greater than 5 1/2 inches except as provided in (C) of this Subparagraph. Attendance is required when used from one hour after sunrise through one hour before sunset in internal coastal fishing waters east and north of the Highway 58 Bridge at Emerald Isle and in the Atlantic Ocean east and north of 77° 04.0000' W. Attendance is required at all times in internal coastal fishing waters west and south of the Highway 58 Bridge at Emerald Isle and in the Atlantic Ocean west and south of 77° 04.0000' W; and
  - (C) Not more than 100 yards of gill net may be used at any one time, except that when two or more Recreational Commercial Gear License holders are on board, a maximum of 200 yards may be used from a vessel;
  - (D) It is unlawful to possess aboard a vessel more than 100 yards of gill nets with a mesh length less than 5 1/2 inches and more than 100 yards of gill nets with a mesh length equal to or greater than 5 1/2 inches identified as recreational commercial fishing equipment when only one Recreational Commercial Gear License holder is on board. It is unlawful to possess aboard a vessel more than 200 yards of gill nets with a mesh length less than 5 1/2 inches and more than 200 yards of gill nets with a mesh length equal to or greater than 5 1/2 inches identified as recreational commercial fishing equipment when two or more Recreational Commercial Gear License holders are on board;
- (6) A hand-operated device generating pulsating electrical current for the taking of catfish in the area described in 15A NCAC 03J .0304;
- (7) Skimmer trawls not exceeding 26 feet in total combined width.
- (8) One pound net used to take shrimp with each lead 10 feet or less in length and with a minimum lead net mesh of 1 1/2 inches, and enclosures constructed of net mesh of 1 1/4 inches or greater and with all dimensions being 36 inches or less. Attendance is required at all times and all gear must be removed from the water when not being fished. Gear is to be marked and set as specified in 15A NCAC 03J .0501.

(b) It is unlawful to use more than the quantity of authorized gear specified in Subparagraphs (a)(1) through (a)(8) of this Rule, regardless of the number of individuals aboard a vessel possessing a valid Recreational Commercial Gear License.

(c) It is unlawful for a person to violate the restrictions of or use gear other than that authorized by Paragraph (a) of this Rule.

(d) Unless otherwise provided, this Rule does not exempt Recreational Commercial Gear License holders from the provisions of other applicable rules of the Marine Fisheries Commission or provisions of proclamations issued by the Fisheries Director as authorized by the Marine Fisheries Commission.

*History Note:* Authority G.S. 113-134; 113-173;  
Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Eff. February 1, 1995;  
Temporary Amendment Eff. August 1, 1999; July 1, 1999;  
Amended Eff. August 1, 2000;  
Temporary Amendment Eff. August 1, 2000;  
Amended Eff. April 1, 2009; July 1, 2006; November 1, 2005; August 1, 2002.

**15A NCAC 030 .0303 RECREATIONAL COMMERCIAL GEAR LICENSE POSSESSION LIMITS**

- (a) It is unlawful to possess more than a single recreational possession limit when only one person aboard a vessel possesses a valid Recreational Commercial Gear License and recreational commercial fishing equipment as defined in 15A NCAC 030 .0302(a) is used, regardless of the number of persons on board.
- (b) It is unlawful to possess individual recreational possession limits in excess of the number of individuals aboard a vessel holding valid Recreational Commercial Gear Licences except as provided in Paragraph (f) of this Rule.
- (c) It is unlawful for any person who holds both a Recreational Commercial Gear License and a Standard or Retired Standard Commercial Fishing License and who is in possession of identified recreational commercial fishing equipment as defined in 15A NCAC 030 .0302(a), to exceed the single recreational possession limit.
- (d) It is unlawful for persons aboard a vessel collectively holding only one Recreational Commercial Gear License and any Standard Commercial Fishing License or Retired Standard Commercial Fishing License and who are in possession of any identified recreational commercial fishing equipment as defined in 15A NCAC 030 .0302(a), to exceed one recreational possession limit.
- (e) It is unlawful to possess more than 48 quarts, heads on, or 30 quarts, heads off, of shrimp when only one person aboard a vessel possesses a valid Recreational Commercial Gear License and recreational commercial fishing equipment as defined in 15A NCAC 030 .0302(a) is used.
- (f) It is unlawful to possess more than 96 quarts, heads on or 60 quarts, heads off, of shrimp if more than one person aboard a vessel possesses a valid Recreational Commercial Gear License and recreational commercial fishing equipment as defined in 15A NCAC 030 .0302(a) is used.

*History Note:* Authority G.S. 113-134; 113-170.4; 113-173; 143B-289.52;  
Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Eff. February 1, 1995;  
Temporary Amendment Eff. June 7, 1998;  
Amended Eff. April 1, 1999;  
Temporary Amendment Eff. July 1, 1999;  
Amended Eff. July 1, 2006; August 1, 2000.

- 15A NCAC 030 .0304 CONSIDERATION OF APPEAL PETITIONS**
- 15A NCAC 030 .0305 EMERGENCY LICENSES**
- 15A NCAC 030 .0306 HARDSHIP LICENSES**
- 15A NCAC 030 .0307 APPEALS PANEL FINAL DECISION**
- 15A NCAC 030 .0308 OFFICIAL RECORD**
- 15A NCAC 030 .0309 REASONS FOR REVOCATION**
- 15A NCAC 030 .0310 TEMPORARY EMERGENCY VESSEL CRAB LICENSES**

*History Note:* Filed as a Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Authority G.S. 113-134; 113-153.1; 1993 (Regular Session 1994), c. 576, s. 3; 143B-289.52;  
Eff. February 1, 1995;  
Temporary Repeal Eff. July 1, 1999;  
Repealed Eff. August 1, 2000.

**SECTION .0400 – STANDARD COMMERCIAL LICENSE ELIGIBILITY**

**15A NCAC 030 .0401 ELIGIBILITY BOARD**

- (a) The Chairman of the Marine Fisheries Commission, the Secretary of the Department of Environment and Natural Resources, and the Director of the Division of Marine Fisheries may each name a designee and an alternate designee to serve on the Eligibility Board as their representative in their absence.

(b) The Eligibility Board shall not review an application for eligibility without a quorum of the Eligibility Board members or designees being present. Two or more members of the Eligibility Board or their designees constitute a quorum.

*History Note: Authority G.S. 113-134; 143B-289.52; S.L. 1998-225, s. 4:24;  
Temporary Adoption Eff. April 1, 1999;  
Eff. August 1, 2000.*

#### **15A NCAC 030 .0402 APPLICATION PROCESS**

(a) Application forms for determination of eligibility for the Standard Commercial Fishing Licenses Eligibility Pool shall be available at all offices of the Division of Marine Fisheries and must be submitted to the Morehead City Office of the Division of Marine Fisheries for processing.

(b) Only one application per individual for determination of eligibility for the Standard Commercial Fishing Licenses Eligibility Pool shall be accepted or may be pending at any one time. An applicant may have only one entry in the eligibility pool at any one time.

(c) Individuals who currently hold or are eligible to purchase a Standard or Retired Standard Commercial Fishing License shall not be eligible to apply for additional Standard Commercial Fishing Licenses through the Standard Commercial Fishing Licenses Eligibility Pool.

(d) If an applicant has died or becomes ineligible and is subsequently selected from the eligibility pool, that license eligibility shall automatically revert to the eligibility pool.

(e) Persons claiming retirement from commercial fishing or transferring their Standard Commercial Fishing License may not apply for pool eligibility for two years from the date of the last transfer except as provided in 15A NCAC 030 .0404(3).

(f) Applicants shall notify the Division of Marine Fisheries within 30 days of a change of address.

*History Note: Authority G.S. 113-134; 143B-289.52; S.L. 1998-225, s. 4:24;  
Temporary Adoption Eff. April 1, 1999;  
Eff. August 1, 2000;  
Amended Eff. October 1, 2008; February 1, 2008.*

#### **15A NCAC 030 .0403 ELIGIBILITY BOARD REVIEW**

(a) After determination by the Eligibility Board, applicants will be notified in writing as to the applicant's meeting or not meeting required eligibility criteria for the Standard Commercial Fishing License Eligibility Pool.

(b) The Marine Fisheries Commission shall determine the number of licenses available from the pool at their first scheduled meeting following July 1 of each year.

(c) The Eligibility Board shall meet to review applications as often as deemed necessary by the Chairman of the Eligibility Board.

*History Note: Authority G.S. 113-134; 143B-289.52; S.L. 1998-225, s. 4:24;  
Temporary Adoption Eff. April 1, 1999;  
Eff. August 1, 2000;  
Amended Eff. February 1, 2008.*

#### **15A NCAC 030 .0404 ELIGIBILITY CRITERIA**

In determining eligibility of an application for the Standard Commercial Fishing License Eligibility Pool, the Eligibility Board shall apply the following criteria:

- (1) Involvement in Commercial Fishing:
  - (a) Significant involvement in the commercial fishing industry for three of the last five years; or
  - (b) Significant involvement in commercial fishing or in the commercial fishing industry prior to the last five years; or
  - (c) In the case of an applicant who is under 16 years of age, significant involvement in commercial fishing for two out of the last five years with a parent, legal guardian, grandparent or other adult; or
  - (d) Significant involvement of the applicant's family in commercial fishing. For the purpose of this Sub-item, family shall include mother, father, brother, sister, spouse, children, grandparents or legal guardian.

For the purposes of this Rule, significant involvement means persons or corporations who are engaged in the actual taking of fish for sale, from the waters of the State, or other states, jurisdictions, or federal waters, or any licensed dealer or the dealer's employees who purchases fish at the point of landing. Significant involvement does not include activities such as those who transport fish from the point of landing; those who sell or make commercial or recreational fishing gear; those who operate bait and

tackle shops unless they are engaged in the actual taking of bait for sale; or those who work in fish markets or crab picking operations.

- (2) Compliance with Applicable Laws and Regulations:
- (a) The applicant shall not have any licenses, endorsements or commercial fishing vessel registrations issued by the Division of Marine Fisheries or the right to hold such under suspension or revocation at the time of application or during the eligibility review; or
  - (b) If selected for the Standard Commercial Fishing License Eligibility Pool, the applicant shall become ineligible for the Standard Commercial Fishing License Eligibility Pool if any licenses, endorsements or registrations or the right to hold such issued by the Division of Marine Fisheries are suspended or revoked; or
  - (c) Four convictions within the last three years or the number of convictions which would cause suspension or revocation of license, endorsement, or registration within the last three years shall result in the application being denied; or
  - (d) A record of habitual violations evidenced by eight or more convictions in the last 10 years shall result in the application being denied.

For purposes of eligibility for the Standard Commercial Fishing License Eligibility Pool, the term convictions shall include but not be limited to any conviction for violation of any provision of Chapter 113 of the North Carolina General Statutes and any rule implementing or authorized by such statutes; any conviction for violation of G.S. 76-40 and any rule implementing or authorized by such statute; any conviction of Chapter 75A of the North Carolina General Statutes and any rule implementing or authorized by such statutes; any conviction for violation of any provision of Article 7 of Chapter 143B of the North Carolina General Statutes and any rule implementing or authorized by such statutes; any conviction of resist, obstruct, or delay involving a Marine Patrol Officer or Wildlife Officer under G.S. 14-223; and any conviction involving assaultive behavior toward a Marine Patrol Officer or other governmental official of the Department of Environment and Natural Resources or the Wildlife Commission.

Applicants for the Standard Commercial Fishing License Eligibility Pool must provide certification that the applicant does not have four or more marine or estuarine resource violations during the previous three years.

- (3) The responsible party shall not have transferred a Standard Commercial Fishing License granted by the Eligibility Board.
- (4) All applicants for the Standard Commercial Fishing License Eligibility Pool must meet all other statutory eligibility requirements for the Standard Commercial Fishing License.

*History Note:* Authority G.S. 113-134; 113-168.1; 113-168.2; 143B-289.52; S.L. 1998-225, s. 4.24; Temporary Adoption Eff. April 1, 1999; Eff. August 1, 2000; Amended Eff. October 1, 2008; February 1, 2008.

#### **15A NCAC 030 .0405 APPLICATION DOCUMENTATION**

Documentation for applications:

- (1) Statements from individuals verifying the applicant's involvement must contain the individual's name, address and telephone number and must be notarized.
- (2) Proof of income derived from commercial fishing or the commercial fishing industry. Proof of this income shall be tax records.
- (3) The extent to which the applicant has complied with federal and state laws, regulations, and rules relating to coastal fishing and protection of the environment. Federal compliance will be verified by a notarized statement from the applicant that he has complied with federal laws.
- (4) All documents required by this Rule must be notarized.
- (5) Applications shall be legible and complete or they will be returned.
- (6) It is unlawful to submit false statements on applications or supporting documents. If eligibility is based on false information provided by the applicant, this eligibility is automatically revoked.

*History Note:* Authority G.S. 113-134; 143B-289.52; S.L. 1998-225, s. 4.24; Temporary Adoption Eff. April 1, 1999; Eff. August 1, 2000.

**15A NCAC 030 .0406 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY POOL CERTIFICATION**

Annual certification to maintain an eligible application in the Standard Commercial Fishing License Eligibility Pool shall be as follows:

- (1) The applicant shall certify that the information on his original application is correct and that he desires to remain in the Standard Commercial Fishing License Eligibility Pool.
- (2) A certification form shall be provided and mailed to the applicant at the last known address by the Division.
- (3) This certification, with any changes such as address, phone number, or updated fisheries involvement information since the last application or certification must be notarized and submitted to the Division within 12 months of the initial application and annually thereafter.
- (4) Failure to return certification that application is correct or with changes within 30 days shall result in the application being deleted from the Standard Commercial Fishing License Eligibility Pool.
- (5) An applicant that has been deleted from the Standard Commercial Fishing License Eligibility Pool shall receive a notice from the Division.

*History Note: Authority G.S. 113-134; 143B-289.52; S.L. 1998-225, s. 4.24; Temporary Adoption Eff. April 1, 1999; Eff. August 1, 2000.*

**SECTION .0500 – PERMITS**

**15A NCAC 030 .0501 PROCEDURES AND REQUIREMENTS TO OBTAIN PERMITS**

(a) To obtain a Division of Marine Fisheries permit, an applicant, responsible party, or person holding a power of attorney shall provide the following information:

- (1) the full name, physical address, mailing address, date of birth, and signature of the applicant on the application and, if the applicant is not appearing before a license agent or the designated Division of Marine Fisheries contact, the applicant's signature on the application shall be notarized;
- (2) a current picture identification of the applicant, responsible party, or person holding a power of attorney, acceptable forms of which shall include driver's license, North Carolina Identification card issued by the North Carolina Division of Motor Vehicles, military identification card, resident alien card (green card), or passport or, if applying by mail, a copy thereof;
- (3) for permits that require a list of designees, the full names and dates of birth of the designees of the applicant who will be acting pursuant to the requested permit;
- (4) certification that the applicant and his or her designees do not have four or more marine or estuarine resource convictions during the previous three years;
- (5) for permit applications from business entities:
  - (A) the business name;
  - (B) the type of business entity: corporation, "educational institution" as defined in 15A NCAC 031 .0101, limited liability company (LLC), partnership, or sole proprietorship;
  - (C) the name, address, and phone number of responsible party and other identifying information required by this Subchapter or rules related to a specific permit;
  - (D) for a corporation applying for a permit in a corporate name, the current articles of incorporation and a current list of corporate officers;
  - (E) for a partnership that is established by a written partnership agreement, a current copy of such agreement shall be provided when applying for a permit; and
  - (F) for business entities other than corporations, copies of current assumed name statements if filed with the Register of Deeds office for the corresponding county and copies of current business privilege tax certificates, if applicable; and
- (6) additional information as required for specific permits.

(b) A permittee shall hold a valid:

- (1) Standard or Retired Standard Commercial Fishing License in order to hold:
  - (A) an Atlantic Ocean Striped Bass Commercial Gear Permit;
  - (B) a Permit for Weekend Trawling for Live Shrimp; or
  - (C) a Pound Net Set Permit.

The master designated on the single vessel corporation Standard Commercial Fishing License is the individual required to hold the Permit for Weekend Trawling for Live Shrimp.

- (2) Fish Dealer License in the proper category in order to hold dealer permits for monitoring fisheries under a quota or allocation for that category.

(c) An individual who is assigned a valid Standard Commercial Fishing License with applicable endorsements shall be eligible to hold any permit that requires a Standard Commercial Fishing License except a Pound Net Set Permit.

(d) If mechanical methods to take shellfish are used, a permittee and his designees shall hold a valid Standard or Retired Standard Commercial Fishing License with a Shellfish Endorsement in order for a permittee to hold a:

- (1) Depuration Permit;
- (2) Permit to Harvest Rangia Clams from Prohibited (Polluted) Areas;
- (3) Permit to Transplant Oysters from Seed Oyster Management Areas;
- (4) Permit to Transplant Prohibited (Polluted) Shellfish; or
- (5) Permit to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises, except as provided in G.S. 113-169.2.

(e) If mechanical methods to take shellfish are not used, a permittee and his designees shall hold a valid Standard or Retired Standard Commercial Fishing License with a Shellfish Endorsement or a Shellfish License in order for a permittee to hold a:

- (1) Depuration Permit;
- (2) Permit to Harvest Rangia Clams from Prohibited (Polluted) Areas;
- (3) Permit to Transplant Oysters from Seed Oyster Management Areas; or
- (4) Permit to Transplant Prohibited (Polluted) Shellfish.

(f) Aquaculture Operation Permit and Aquaculture Collection Permit:

- (1) A permittee shall hold a valid Aquaculture Operation Permit issued by the Fisheries Director to hold an Aquaculture Collection Permit.
- (2) The permittee or designees shall hold appropriate licenses from the Division of Marine Fisheries for the species harvested and the gear used under the Aquaculture Collection Permit.

(g) Atlantic Ocean Striped Bass Commercial Gear Permit:

- (1) An applicant for an Atlantic Ocean Striped Bass Commercial Gear Permit shall declare one of the following types of gear for an initial permit and at intervals of three consecutive license years thereafter:
  - (A) a gill net;
  - (B) a trawl net; or
  - (C) a beach seine.

For the purpose of this Rule, a "beach seine" shall mean a swipe net constructed of multi-filament or multi-fiber webbing fished from the ocean beach that is deployed from a vessel launched from the ocean beach where the fishing operation takes place. Gear declarations shall be binding on the permittee for three consecutive license years without regard to subsequent annual permit issuance.

- (2) A person is not eligible for more than one Atlantic Ocean Striped Bass Commercial Gear Permit regardless of the number of Standard Commercial Fishing Licenses, Retired Standard Commercial Fishing Licenses, or assignments held by that person.

(h) Applications submitted without complete and required information shall not be processed until all required information has been submitted. Incomplete applications shall be returned to the applicant with the deficiency in the application noted.

(i) A permit shall be issued only after the application is deemed complete and the applicant certifies his or her agreement to abide by the permit general and specific conditions established under 15A NCAC 03J .0501, .0505, 03K .0103, .0104, .0107, .0111, .0401, and Rules .0502 and .0503 of this Section, as applicable to the requested permit.

(j) In determining whether to issue, modify, or renew a permit, the Fisheries Director or his or her agent shall evaluate factors such as the following:

- (1) potential threats to public health or marine and estuarine resources regulated by the Marine Fisheries Commission;
- (2) the applicant's demonstration of a valid justification for the permit; and
- (3) whether the applicant has a history of eight or more fisheries violations within 10 years.

(k) The Division of Marine Fisheries shall notify the applicant in writing of the denial or modification of any permit request and the reasons therefor. The applicant may submit further information or reasons why the permit should not be denied or modified.

(l) Permits are valid from the date of issuance through the expiration date printed on the permit. Unless otherwise established by rule, the Fisheries Director may establish the issuance timeframe for specific types and categories of permits based on season, calendar year, or other period based upon the nature of the activity permitted, the duration of the activity, compliance with federal or State fishery management plans or implementing rules, conflicts with other fisheries or gear usage, or seasons for the species involved. The expiration date shall be specified on the permit.

(m) For permit renewals, the permittee's signature on the application shall certify all information is true and accurate. Notarized signatures on renewal applications shall not be required.

(n) It shall be unlawful for a permit holder to fail to notify the Division of Marine Fisheries within 30 days of a change of name or address, in accordance with G.S. 113-169.2.

(o) It shall be unlawful for a permit holder to fail to notify the Division of Marine Fisheries of a change of designee prior to use of the permit by that designee.

(p) Permit applications shall be available at all Division of Marine Fisheries offices.

*History Note: Authority G.S. 113-134; 113-169.1; 113-169.2; 113-169.3; 113-182; 113-210; 143B-289.52; Temporary Adoption Eff. September 1, 2000; May 1, 2000; Eff. April 1, 2001; Temporary Amendment Eff. October 1, 2001; Amended Eff. May 1, 2017; May 1, 2015; April 1, 2011; April 1, 2009; July 1, 2008; December 1, 2007; September 1, 2005; April 1, 2003; August 1, 2002; Readopted Eff. April 1, 2019.*

#### **15A NCAC 030 .0502 PERMIT CONDITIONS; GENERAL**

The following conditions apply to all permits issued by the Fisheries Director:

- (1) it is unlawful to operate under the permit except in areas, at times, and under conditions specified on the permit;
- (2) it is unlawful to operate under a permit without having the permit or copy thereof in possession of the permittee or his or her designees at all times of operation and the permit or copy thereof shall be ready at hand for inspection, except for Pound Net Permits;
- (3) it is unlawful to operate under a permit without having a current picture identification in possession and ready at hand for inspection;
- (4) it is unlawful to refuse to allow inspection and sampling of a permitted activity by an agent of the Division;
- (5) it is unlawful to fail to provide complete and accurate information requested by the Division in connection with the permitted activity;
- (6) it is unlawful to hold a permit issued by the Fisheries Director when not eligible to hold any license required as a condition for that permit as stated in 15A NCAC 030 .0501;
- (7) it is unlawful to fail to provide reports within the timeframe required by the specific permit conditions;
- (8) it is unlawful to fail to keep such records and accounts as required by the rules in this Chapter for determination of conservation policy, equitable and efficient administration and enforcement, or promotion of commercial or recreational fisheries;
- (9) it is unlawful to assign or transfer permits issued by the Fisheries Director, except for Pound Net Permits as authorized by 15A NCAC 03J .0504;
- (10) the Fisheries Director, or his agent, may, by conditions of the permit, specify any or all of the following for the permitted purposes:
  - (a) species;
  - (b) quantity or size;
  - (c) time period;
  - (e) location;
  - (d) means and methods;
  - (f) disposition of resources;
  - (g) marking requirements; or
  - (h) harvest conditions.
- (11) unless specifically stated as a condition on the permit, all statutes, rules and proclamations shall apply to the permittee and his or her designees; and
- (12) as a condition of accepting the permit from the Fisheries Director, the permittee agrees to abide by all conditions of the permit and agrees that if specific conditions of the permit, as identified on the permit, are violated or if false information was provided in the application for initial issuance, renewal or transfer, the permit may be suspended or revoked by the Fisheries Director.

*History Note: Authority G.S. 113-134; 113-169.1; 113-182; 113-210; 143B-289.52; Temporary Adoption Eff. May 1, 2000; Eff. April 1, 2001; Amended Eff. April 1, 2009; September 1, 2005.*

NOTE: 15A NCAC 030 .0503(i) is subject to change consistent with Session Law 2015-241, Section 14.10A.

#### **15A NCAC 030 .0503 PERMIT CONDITIONS; SPECIFIC**

(a) Aquaculture Operation Permit and Aquaculture Collection Permit:

- (1) It shall be unlawful to conduct aquaculture operations using marine and estuarine resources without first securing an Aquaculture Operation Permit from the Fisheries Director.
- (2) It shall be unlawful:

- (A) to take marine and estuarine resources from Coastal Fishing Waters for aquaculture purposes without first obtaining an Aquaculture Collection Permit from the Fisheries Director;
  - (B) to sell or use for any purpose not related to North Carolina aquaculture marine and estuarine resources taken pursuant to an Aquaculture Collection Permit; or
  - (C) to fail to submit to the Fisheries Director an annual report, due on December 1 of each year on the form provided by the Division of Marine Fisheries, stating the amount and disposition of marine and estuarine resources collected under authority of an Aquaculture Collection Permit.
- (3) Lawfully permitted shellfish relaying activities authorized by 15A NCAC 03K .0103 and .0104 shall be exempt from requirements to have an Aquaculture Operation Permit or Aquaculture Collection Permit issued by the Fisheries Director.
- (4) Aquaculture Operation Permits and Aquaculture Collection Permits shall be issued or renewed on a calendar year basis.
- (5) It shall be unlawful to fail to provide the Division with a listing of all designees acting pursuant to an Aquaculture Collection Permit at the time of application.
- (b) Atlantic Ocean Striped Bass Commercial Gear Permit:
- (1) It shall be unlawful to take striped bass from the Atlantic Ocean in a commercial fishing operation without first obtaining an Atlantic Ocean Striped Bass Commercial Gear Permit.
  - (2) It shall be unlawful to obtain more than one Atlantic Ocean Striped Bass Commercial Gear Permit during a license year, regardless of the number of Standard Commercial Fishing licenses, Retired Standard Commercial Fishing licenses, or assignments.
- (c) Blue Crab Shedding Permit: It shall be unlawful to possess more than 50 blue crabs in a shedding operation without first obtaining a Blue Crab Shedding Permit from the Division of Marine Fisheries.
- (d) Coastal Recreational Fishing License Exemption Permit:
- (1) It shall be unlawful for the responsible party seeking exemption from recreational fishing license requirements for eligible individuals to conduct an organized fishing event held in Joint or Coastal Fishing Waters without first obtaining a Coastal Recreational Fishing License Exemption Permit.
  - (2) The Coastal Recreational Fishing License Exemption Permit shall only be issued for recreational fishing activity conducted solely for the participation and benefit of one of the following groups of eligible individuals:
    - (A) individuals with physical or mental impairment;
    - (B) members of the United States Armed Forces and their dependents, upon presentation of a valid military identification card;
    - (C) individuals receiving instruction on recreational fishing techniques and conservation practices from employees of state or federal marine or estuarine resource management agencies or instructors affiliated with educational institutions; and
    - (D) disadvantaged youths as set forth in 42 U.S. Code 12511.For the purpose of this Paragraph, educational institutions include high schools and other secondary educational institutions.
  - (3) The Coastal Recreational Fishing License Exemption Permit shall be valid for the date, time, and physical location of the organized fishing event for which the exemption is granted and the duration of the permit shall not exceed one year from the date of issuance.
  - (4) The Coastal Recreational Fishing License Exemption Permit shall only be issued if all of the following, in addition to the information required in Rule .0501 of this Section, is submitted to the Fisheries Director, in writing, at least 30 days prior to the event:
    - (A) the name, date, time, and physical location of the event;
    - (B) documentation that substantiates local, state, or federal involvement in the organized fishing event, if applicable;
    - (C) the cost or requirements, if any, for an individual to participate in the event; and
    - (D) an estimate of the number of participants.
- (e) Dealer permits for monitoring fisheries under a quota or allocation:
- (1) During the commercial season opened by proclamation or rule for the fishery for which a dealer permit for monitoring fisheries under a quota or allocation shall be issued, it shall be unlawful for a fish dealer issued such permit to fail to:
    - (A) fax or send via electronic mail by noon daily, on forms provided by the Division of Marine Fisheries, the previous day's landings for the permitted fishery to the Division. Landings for Fridays or Saturdays shall be submitted on the following Monday. If the dealer is unable to fax or electronically mail the required information, the permittee shall call in the previous day's landings to the Division;
    - (B) submit the required form set forth in Part (e)(1)(A) of this Rule to the Division upon request or no later than five days after the close of the season for the fishery permitted;

- (C) maintain taxes and other related documentation in accordance with 15A NCAC 03I .0114;
  - (D) contact the Division daily, regardless of whether a transaction for the fishery for which a dealer is permitted occurred; and
  - (E) record the permanent dealer identification number on the bill of lading or receipt for each transaction or shipment from the permitted fishery.
- (2) Atlantic Ocean Flounder Dealer Permit:
- (A) It shall be unlawful for a fish dealer to allow vessels holding a valid License to Land Flounder from the Atlantic Ocean to land more than 100 pounds of flounder from a single transaction at their licensed location during the open season without first obtaining an Atlantic Ocean Flounder Dealer Permit. The licensed location shall be specified on the Atlantic Ocean Flounder Dealer Permit and only one location per permit shall be allowed.
  - (B) It shall be unlawful for a fish dealer to possess, buy, sell, or offer for sale more than 100 pounds of flounder from a single transaction from the Atlantic Ocean without first obtaining an Atlantic Ocean Flounder Dealer Permit.
- (3) Black Sea Bass North of Cape Hatteras Dealer Permit: It shall be unlawful for a fish dealer to purchase or possess more than 100 pounds of black sea bass taken from the Atlantic Ocean north of Cape Hatteras (35° 15.0321' N) per day per commercial fishing operation during the open season unless the dealer has a Black Sea Bass North of Cape Hatteras Dealer Permit.
- (4) Spiny Dogfish Dealer Permit: It shall be unlawful for a fish dealer to purchase or possess more than 100 pounds of spiny dogfish per day per commercial fishing operation unless the dealer has a Spiny Dogfish Dealer Permit.
- (5) Striped Bass Dealer Permit:
- (A) It shall be unlawful for a fish dealer to possess, buy, sell, or offer for sale striped bass taken from the following areas without first obtaining a Striped Bass Dealer Permit validated for the applicable harvest area:
    - (i) the Atlantic Ocean;
    - (ii) the Albemarle Sound Management Area as designated in 15A NCAC 03R .0201; or
    - (iii) the Joint and Coastal Fishing Waters of the Central/Southern Management Area as designated in 15A NCAC 03R .0201.
  - (B) No permittee shall possess, buy, sell, or offer for sale striped bass taken from the harvest areas opened by proclamation without having a valid Division of Marine Fisheries-issued tag for the applicable area affixed through the mouth and gill cover or, in the case of striped bass imported from other states, a similar tag that is issued for striped bass in the state of origin. Division striped bass tags shall not be bought, sold, offered for sale, or transferred. Tags shall be obtained at the Division offices. The Division shall specify the quantity of tags to be issued based on historical striped bass landings. It shall be unlawful for the permittee to fail to surrender unused tags to the Division upon request.
- (f) Horseshoe Crab Biomedical Use Permit:
- (1) It shall be unlawful to use horseshoe crabs for biomedical purposes without first obtaining a permit.
  - (2) It shall be unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to submit an annual report on the use of horseshoe crabs to the Division of Marine Fisheries, due on February 1 of each year. Such reports shall be filed on forms provided by the Division and shall include a monthly account of the number of crabs harvested, a statement of percent mortality up to the point of release, the harvest method, the number or percent of males and females, and the disposition of bled crabs prior to release.
  - (3) It shall be unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to comply with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab. The Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab is incorporated by reference including subsequent amendments and editions. Copies of this plan are available via the Internet from the Atlantic States Marine Fisheries Commission at <http://www.asmfc.org/fisheries-management/program-overview> and at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557, at no cost.
- (g) Permit for Weekend Trawling for Live Shrimp:
- (1) It shall be unlawful to take shrimp with trawls from 9:00 p.m. on Friday through 12 noon on Saturday without first obtaining a Permit for Weekend Trawling for Live Shrimp.
  - (2) It shall be unlawful for a holder of a Permit for Weekend Trawling for Live Shrimp to use trawls from 12:01 p.m. on Saturday through 4:59 p.m. on Sunday.
  - (3) It shall be unlawful for a permit holder during the timeframe specified in Subparagraph (k)(1) of this Rule to:
    - (A) use trawl nets to take live shrimp except from areas open to the harvest of shrimp with trawls;

- (B) take shrimp with trawls that have a combined headrope length of greater than 40 feet in Internal Coastal Waters;
- (C) possess more than one gallon of dead shrimp (heads on) per trip;
- (D) fail to have a functioning live bait tank or a combination of multiple functioning live bait tanks, with aerators or circulating water, with a minimum combined tank capacity of 50 gallons; or
- (E) fail to call the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-726-7021 prior to each weekend use of the permit, specifying activities and location.

(h) Pound Net Set Permit: The holder of a Pound Net Set Permit shall follow the Pound Net Set Permit conditions as set forth in 15A NCAC 03J .0505.

(i) Scientific or Educational Activity Permit:

- (1) It shall be unlawful for institutions or agencies seeking exemptions from license, rule, proclamation, or statutory requirements to collect, hold, culture, or exhibit for scientific or educational purposes any marine or estuarine species without first obtaining a Scientific or Educational Activity Permit.
- (2) The Scientific or Educational Activity Permit shall only be issued for collection methods and possession allowances approved by the Division of Marine Fisheries.
- (3) The Scientific or Educational Activity Permit shall only be issued for approved activities conducted by or under the direction of Scientific or Educational institutions as defined in 15A NCAC 03I .0101.
- (4) It shall be unlawful for the responsible party issued a Scientific or Educational Activity Permit to fail to submit an annual report on collections and, if authorized, sales to the Division, due on December 1 of each year, unless otherwise specified on the permit. The reports shall be filed on forms provided by the Division. Scientific or Educational Activity permits shall be issued on a calendar year basis.
- (5) It shall be unlawful to sell marine or estuarine species taken under a Scientific or Educational Activity Permit without:
  - (A) the required license for such sale;
  - (B) an authorization stated on the permit for such sale; and
  - (C) providing the information required by 15A NCAC 03I .0114 if the sale is to a licensed fish dealer.
- (6) It shall be unlawful to fail to provide the Division with a list of all designees acting under a Scientific or Educational Activity Permit at the time of application.
- (7) The permittee or designees utilizing the permit shall call the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-726-7021 not later than 24 hours prior to use of the permit, specifying activities and location.

(j) Under Dock Oyster Culture Permit:

- (1) It shall be unlawful to cultivate oysters in containers under docks for personal consumption without first obtaining an Under Dock Oyster Culture Permit.
- (2) An Under Dock Oyster Culture Permit shall be issued only in accordance with provisions set forth in G.S. 113-210(c).
- (3) The applicant shall complete and submit an examination, with a minimum of 70 percent correct answers, based on an educational package provided by the Division of Marine Fisheries pursuant to G.S. 113-210(j), demonstrating the applicant's knowledge of:
  - (A) the application process;
  - (B) permit criteria;
  - (C) basic oyster biology and culture techniques;
  - (D) shellfish harvest area closures due to pollution;
  - (E) safe handling practices;
  - (F) permit conditions; and
  - (G) permit revocation criteria.
- (4) Action by an Under Dock Oyster Culture Permit holder to encroach on or usurp the legal rights of the public to access public trust resources in Coastal Fishing Waters shall result in permit revocation.

*History Note: Authority G.S. 113-134; 113-169.1; 113-169.2; 113-169.3; 113-182; 113-210; 143B-289.52; Temporary Adoption Eff. September 1, 2000; August 1, 2000; May 1, 2000; Eff. April 1, 2001; Amended Eff. May 1, 2017; May 1, 2015; April 1, 2014; April 1, 2009; July 1, 2008; January 1, 2008; September 1, 2005; October 1, 2004; August 1, 2004; August 1, 2002; Readopted Eff. April 1, 2019.*

#### **15A NCAC 03O .0504 SUSPENSION/REVOCATION OF PERMITS**

(a) For violation of specific permit conditions (as specified on the permit), permits may be suspended or revoked according to the following schedule:

- (1) violation of one specific condition in a three year period, permit shall be suspended for 10 days;
- (2) violation of two specific conditions in a three year period, permits shall be suspended for 30 days;
- (3) violation of three specific conditions in a three year period, permits shall be revoked for a period not less than six months.

If the permit condition violated is the refusal to provide information upon request by Division staff, either by telephone, in writing or in person, the Fisheries Director may suspend the permit. Such permit may be reinstated 10 days after the requested information is provided.

(b) All permits will be suspended or revoked when the permittee's license privilege has been suspended or revoked as set out in G.S. 113-171. The duration of the suspension or revocation shall be the same as the license suspension or revocation. In the event the person makes application for a new permit during any period of license suspension, no new permit will be issued during the suspension period. In case of revocation of license privileges, the minimum waiting period before application for a new permit to be considered will be six months.

(c) Permit designees shall not be permitted to participate in a permit operation during any period they are under license suspension or revocation.

(d) Upon service of a notice of suspension or revocation of a permit, it is unlawful to fail to surrender any permit so suspended or revoked.

*History Note:* Authority G.S. 113-134; 143B-289.52; S.L. 2010-145;  
Temporary Adoption Eff. May 1, 2000;  
Eff. April 1, 2001.

#### **15A NCAC 030 .0505 FEES**

*History Note:* Authority G.S. 113-134; 113-169.1; 113-169.3; 113-182; 143B-289.52;  
Temporary Adoption Eff. August 1, 2000; May 1, 2000;  
Temporary Repeal Eff. September 1, 2000;  
Temporary Rule Expired April 13, 2001.

#### **15A NCAC 030 .0506 SPECIAL PERMIT REQUIRED FOR SPECIFIC MANAGEMENT PURPOSES**

The Fisheries Director may, by proclamation, require individuals taking marine and estuarine resources regulated by the Marine Fisheries Commission, to obtain a special permit.

*History Note:* Authority G.S. 113-134; 113-170.3; 113-182; 113-221; 143B-289.52;  
Temporary Adoption Eff. May 1, 2000;  
Eff. April 1, 2001.  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

### **SUBCHAPTER 03P – HEARING PROCEDURES**

#### **SECTION .0100 – HEARING PROCEDURES**

##### **15A NCAC 03P .0101 LICENSE, PERMIT, OR CERTIFICATE DENIAL: REQUEST FOR REVIEW**

(a) For the purpose of this Rule and in accordance with G.S. 150B-2, "license" includes "permit" as well as "certification" and "certificate of compliance."

(b) Except in cases where G.S. 113-171 is applicable, before the Division may commence proceedings for suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of a license, notice shall be given to the license holder that:

- (1) the license holder has a right, through filing a request for a contested case hearing in the Office of Administrative Hearings, to a hearing before an administrative law judge and a final agency decision by the Marine Fisheries Commission; and
- (2) the license holder may request an opportunity to show compliance with all requirements for retention of the license by submitting a statement in writing to the personnel designated in the notice to commence proceedings.

(c) Any statements submitted by the license holder to show compliance with all requirements for retention of the license shall be postmarked within 15 days of receipt of the notice to commence proceedings. Statements and any supporting documentation shall be addressed to the personnel designated in the notice and mailed to the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557.

(d) Upon receipt of a statement and any supporting documentation from the license holder, the Division shall review the statement and, within 15 days, shall notify the license holder in writing with the Division's determination whether the license holder demonstrated compliance with all requirements for retention of the license. In making this determination,

the Division may consider criteria including material changes made enabling the license holder to conduct the operations for which the license is held in accord with all applicable laws and rules and processing errors made by the Division.

(e) The Division shall order summary suspension of a license if it finds that the public health, safety, or welfare requires emergency action. Upon such determination, the Fisheries Director shall issue an order giving the reasons for the emergency action. The effective date of the order shall be the date specified on the order or the date of service of a certified copy of the order at the last known address of the license holder, whichever is later.

*History Note:* Authority G.S. 113-134; 113-171; 113-221.2; 150B-3; 150B-23;  
Eff. January 1, 1991;  
Amended Eff. May 1, 2017; August 1, 1999.

#### **15A NCAC 03P .0102 CONTESTED CASE HEARING PROCEDURES**

Administrative hearings shall be held in accordance with G.S. 150B, and the administrative hearing procedures codified at 15A NCAC 1B .0200.

*History Note:* Authority G.S. 113-134; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. August 1, 1999.

#### **15A NCAC 03P .0103 PETITIONS FOR REGULATORY ACTIVITY**

*History Note:* Authority G.S. 113-134; 143B-289.4; 150B-20;  
Eff. September 1, 1991;  
Amended Eff. May 1, 1992;  
Repealed Eff. April 1, 1999.

### **SECTION .0200 – DECLARATORY RULINGS**

#### **15A NCAC 03P .0201 DECLARATORY RULINGS: GENERALLY**

At the request of any person aggrieved, as defined in G.S. 150B-2(6), the Marine Fisheries Commission may issue a declaratory ruling as provided in G.S. 150B-4.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52; 150B-4;  
Eff. April 1, 1999.

#### **15A NCAC 03P .0202 PROCEDURE FOR REQUESTING DECLARATORY RULINGS**

(a) All requests for a declaratory ruling shall be filed in writing with the Director of the Division of Marine Fisheries, Department of Environment and Natural Resources (DENR), P.O. Box 769, Morehead City, North Carolina 28557. All requests shall include the following: the aggrieved person's name and address; the rule, statute or order upon which a ruling is desired; a concise statement as to whether the request is for a ruling on the validity of a rule or on the applicability of a rule, order or statute to a given factual situation; arguments or data which demonstrate that the petitioner is aggrieved by the rule or statute or its potential application to him; a statement of the consequences of a failure to issue a declaratory ruling in favor of the petitioner; and a statement of whether an oral argument is desired, and, if so, the reasons for requesting such an oral argument.

(b) A request for a ruling on the applicability of a rule, order, or statute must include a description of the factual situation on which the ruling is to be based. A request for a ruling on the validity of a Commission rule must state the aggrieved person's reasons for questioning the validity of the rule. A person may ask for both types of rulings in a single request. A request for a ruling must include or be accompanied by:

- (1) a statement of the facts proposed for adoption by the Commission; and
- (2) a draft of the proposed ruling.

(c) Before deciding the merits of the request, the Commission may:

- (1) request additional written submissions from petitioner(s);
- (2) request a written response from the Division staff or any other person; or
- (3) hear oral argument from the petitioner(s) and Division staff.

(d) Unless the Division waives the opportunity to be heard, it shall be a party to any request for declaratory ruling. Upon written request, the requesting party and the Division may each be allowed to present oral arguments to the Commission at a regularly scheduled meeting. Neither party may offer testimony or conduct cross-examination before the Commission. The declaratory ruling shall be determined on the basis of the statement of facts submitted by the parties.

- (e) Whenever the Commission believes "for good cause" that the issuance of a declaratory ruling is undesirable, the Commission may refuse to issue such ruling. The Commission shall notify in writing the person requesting the ruling, stating the reasons for the refusal to issue a ruling on the request.
- (f) For purposes of Paragraph (e) of this Rule, the Commission shall ordinarily refuse to issue a ruling on a request for declaratory ruling on finding that:
- (1) the petitioner(s) and the Division cannot agree on a set of facts sufficient to support a meaningful ruling;
  - (2) there has been a similar determination in a previous contested case or declaratory ruling;
  - (3) the matter is the subject of a pending contested case hearing or litigation in any North Carolina or federal court; or
  - (4) no genuine controversy exists as to the application of a statute or rule to the factual situation presented.
- (g) The Commission shall keep a record of each declaratory ruling, which shall include at a minimum the following items:
- (1) the request for a ruling;
  - (2) any written submissions by the parties;
  - (3) the statement of facts on which the ruling was based;
  - (4) any transcripts of oral proceedings, or, in the absence of a transcript, a summary of all arguments;
  - (5) any other matter considered by the Commission in making the decision; and
  - (6) the declaratory ruling, or the decision to refuse to issue a declaratory ruling, together with the reasons therefore.
- (h) A declaratory ruling is binding on the Commission and the person requesting it unless it is altered or set aside by the court. The Commission may not retroactively change a declaratory ruling, but nothing in this Section prevents the Commission from prospectively changing a ruling.
- (i) Unless the requesting party consents to the delay, failure of the Commission to issue a ruling on the merits or deny the request within 60 days of receipt of the request for such ruling shall constitute a denial of the request as well as a denial of the merits of the request and shall be subject to judicial review.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52; 150B-4;  
Eff. April 1, 1999.

### **15A NCAC 03P .0203 DEFINITION**

For purposes of Rule .0202 of this Section, a declaratory ruling shall be deemed to be "in effect" until the statute or rule interpreted by the declaratory ruling is amended, altered or repealed; until the Commission changes the declaratory ruling prospectively for good reasons; until any court sets aside the ruling in litigation between the Commission or Department of Environment and Natural Resources and the party requesting the rule; or until any court of the Appellate Division of the General Court of Justice shall construe the statute or rule which is the subject of the declaratory ruling in a manner plainly irreconcilable with the declaratory ruling.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52; 150B-4;  
Eff. April 1, 1999.

## **SECTION .0300 – PETITIONS FOR RULEMAKING**

### **15A NCAC 03P .0301 FORM AND CONTENTS OF PETITION**

- (a) Any person wishing to request the adoption, amendment, or repeal of a rule of the Marine Fisheries Commission (hereinafter referred to as the Commission) shall make his request in a written petition addressed to the Chairman of the Marine Fisheries Commission and submitted to the Commission staff at:
- Marine Fisheries Commission  
Division of Marine Fisheries  
PO Box 769  
Morehead City, North Carolina 28557.
- (b) The petition shall contain the following information:
- (1) the text of the proposed rule(s);
  - (2) the statutory authority for the agency to promulgate the rule(s);
  - (3) a statement of the reasons for adoption of the proposed rule(s);
  - (4) a statement of the effect on existing rules;
  - (5) copies of any documents and data supporting the proposed rule(s);
  - (6) a statement of the effect of the proposed rule(s) on existing practices in the area involved, including an estimate of cost factors for persons affected by the proposed rule(s);
  - (7) a description of those most likely to be affected by the proposed rule(s); and
  - (8) the name(s) and address(es) of the petitioner(s).

- (c) When petitions and supporting documents and data exceed 10 pages in length, 15 copies of the entire petition and any attachments shall be submitted.
- (d) Petitions failing to contain the required information shall be returned by the Marine Fisheries Commission Chairman.

*History Note: Authority G.S. 113-134; 113-182; 113-182.1; 113-201; 143B-289.51; 143B-289.52; 150B-20; Eff. April 1, 1999.*

**15A NCAC 03P .0302 REVIEW BY A COMMITTEE OF THE COMMISSION**

- (a) The Marine Fisheries Commission Chairman may refer duly submitted petitions to the appropriate standing advisory committee(s) or other advisory committee(s) of the Commission for review and recommended action. Copies of petitions for rulemaking shall be distributed to the Commission members when referred to a committee of the Commission.
- (b) The Chairman of the Committee assigned to review a submitted petition for rulemaking shall announce the date of a meeting to consider the petition within 10 days of the assignment of the petition.
- (c) At least 15 days before the Committee meeting, the Committee Chairman shall send notice of the Committee meeting to the petitioner, members of the Commission, and persons who have requested notice of petitions for rulemaking.
- (d) The petitioner shall be afforded the opportunity to present the petition for rulemaking to the Committee. The Director, through staff, may make a presentation to the Committee.
- (e) Interested persons must request the opportunity to make a presentation to the Committee(s) through the Committee(s) chair(s). The request shall:
  - (1) state the interest of the person,
  - (2) the person's position on the petition for rulemaking, and
  - (3) be accompanied by supporting materials.

The Chairman of the Committee will determine whether additional interested persons make oral presentations before the Committee.

- (f) The Chairman of the Committee will determine whether a public meeting should be conducted by the Committee before it makes a recommendation on the petition for rulemaking.
- (g) During the Committee's review, members of the Commission, other than Committee members, who are present may participate as a member of the Committee in discussions of the petition but may not vote on the recommended action on the petition.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; 150B-20; Eff. April 1, 1999.*

**15A NCAC 03P .0303 PRESENTATION TO THE COMMISSION**

- (a) Petitions for rulemaking, when deemed complete by the Marine Fisheries Commission Chairman, shall be presented to the Marine Fisheries Commission for its consideration and determination at the next regularly scheduled meeting of the Commission.
- (b) Within 120 days following submission of the petition requesting rulemaking, the Marine Fisheries Commission shall:
  - (1) initiate rulemaking proceedings in accordance with G.S. 150B-20 and notify the person(s) who submitted the petition of the decision in writing; or
  - (2) deny the petition in writing, stating the reason or reasons for the denial, and send the written denial to the person(s) who submitted the petition.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.51; 150B-20; Eff. April 1, 1999.*

**15A NCAC 03P .0304 RECOURSE TO DENIAL OF THE PETITION**

If the Marine Fisheries Commission denies the petition for rulemaking, the petitioner(s) may seek judicial review of the denial under G.S. 150B, Article 4 of Chapter 150B of the General Statutes.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.51; 150B-20; Eff. April 1, 1999.*

**SUBCHAPTER 03Q – JURISDICTION OF AGENCIES: CLASSIFICATION OF WATERS**

**SECTION .0100 – GENERAL REGULATIONS: JOINT**

**15A NCAC 03Q .0101 SCOPE AND PURPOSE**

The rules in this Section pertain to the classification of the waters of North Carolina as coastal fishing waters, inland fishing waters and joint fishing waters. These rules are adopted jointly by the Marine Fisheries Commission and the Wildlife

Resources Commission. In addition to the classification of the waters of the state these joint rules set forth guidelines to determine which fishing activities in joint waters are regulated by the Marine Fisheries Commission and which are regulated by the Wildlife Resources Commission. Finally, the joint rules set forth special fishing regulations applicable in joint waters that can be enforced by officers of the Division of Marine Fisheries and the Wildlife Resources Commission. These regulations do not affect the jurisdiction of the Marine Fisheries Commission and the Wildlife Resources Commission in any matters other than those specifically set out.

*History Note:* Authority G.S. 113-132; 113-134; 143B-289.52;  
Eff. January 1, 1991.

#### **15A NCAC 03Q .0102 INLAND FISHING WATERS**

Inland fishing waters are all inland waters except private ponds; and all waters connecting with or tributary to coastal sounds or the ocean extending inland from the dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission. All waters which are tributary to inland fishing waters and which are not otherwise designated by agreement between the Marine Fisheries Commission and the Wildlife Resources Commission are inland fishing waters. The regulation and licensing of fishing in inland fishing waters is under the jurisdiction of the Wildlife Resources Commission. Regulations and laws administered by the Wildlife Resources Commission regarding fishing in inland fishing waters are enforced by wildlife enforcement officers.

*History Note:* Authority G.S. 113-132; 113-134; 143B-289.52;  
Eff. January 1, 1991.

#### **15A NCAC 03Q .0103 COASTAL FISHING WATERS**

Coastal fishing waters are the Atlantic Ocean; the various coastal sounds; and estuarine waters up to the dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission. All waters which are tributary to coastal fishing waters and which are not otherwise designated by agreement between the Marine Fisheries Commission and the Wildlife Resources Commission are coastal fishing waters. The regulations and licensing of fishing in coastal fishing waters is under the jurisdiction of the Marine Fisheries Commission; except that inland game fish (exclusive of spotted seatrout, weakfish, and striped bass) are subject to regulations by the Wildlife Resources Commission in coastal fishing waters. Regulations and laws administered by the Marine Fisheries Commission regarding fishing in coastal waters are enforced by fisheries enforcement officers. Regulations regarding inland game fish in coastal fishing waters are enforced by wildlife enforcement officers unless otherwise agreed to by the Wildlife Resources Commission.

*History Note:* Authority G.S. 113-132; 113-134; 143B-289.52;  
Eff. January 1, 1991.

#### **15A NCAC 03Q .0104 JOINT FISHING WATERS**

Joint fishing waters are those coastal fishing waters, hereinafter set out, denominated by agreement of the Marine Fisheries Commission and the Wildlife Resources Commission pursuant to G.S. 113-132(e) as joint fishing waters. All waters which are tributary to joint fishing waters and which are not otherwise designated by agreement between the Marine Fisheries Commission and the Wildlife Resources Commission are classified as joint fishing waters. The regulation and licensing of fishing in joint waters shall be as stated in 15A NCAC 3Q .0106.

*History Note:* Authority G.S. 113-132; 113-134; 143B-289.52;  
Eff. January 1, 1991.

#### **15A NCAC 03Q .0105 POSTING DIVIDING LINES**

The dividing lines of all major bodies of water and watercourses which are divided by the agreement of the Marine Fisheries Commission and the Wildlife Resources Commission so that portions of the same are constituted inland fishing waters, coastal fishing waters, or joint fishing waters shall be marked with signs in so far as may be practicable. Unmarked and undesignated tributaries shall have the same classification as the designated waters to which they connect or into which they flow. No unauthorized removal or relocation of any such marker shall have the effect of changing the classification of any body of water or portion thereof, nor shall any such unauthorized removal or relocation or the absence of any marker affect the applicability of any regulation pertaining to any such body of water or portion thereof.

*History Note:* Authority G.S. 113-132; 113-134; 143B-289.52;  
Eff. January 1, 1991.

**15A NCAC 03Q .0106 APPLICABILITY OF RULES: JOINT WATERS**

(a) All coastal fishing laws and regulations administered by the Department of Environment and Natural Resources and the Marine Fisheries Commission apply to joint waters except as otherwise provided, and shall be enforced by fisheries enforcement officers.

(b) The following inland fishing laws and regulations administered by the Wildlife Resources Commission apply to joint waters and shall be enforced by wildlife enforcement officers:

- (1) all laws and regulations pertaining to inland game fishes,
- (2) all laws and regulations pertaining to inland fishing license requirements for hook and line fishing,
- (3) all laws and regulations pertaining to hook and line fishing except as hereinafter provided.

*History Note: Authority G.S. 113-132; 113-134; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. July 1, 1999.*

**15A NCAC 03Q .0107 SPECIAL REGULATIONS: JOINT WATERS**

In order to effectively manage all fisheries resources in joint waters and in order to confer enforcement powers on both fisheries enforcement officers and wildlife enforcement officers with respect to certain rules, the Marine Fisheries Commission and the Wildlife Resources Commission deem it necessary to adopt special rules for joint waters. Such rules supersede any inconsistent rules of the Marine Fisheries Commission or the Wildlife Resources Commission that would otherwise be applicable in joint waters under the provisions of 15A NCAC 03Q .0106:

- (1) Striped Bass
  - (a) It is unlawful to possess any striped bass or striped bass hybrid that is less than 18 inches long (total length).
  - (b) It is unlawful to possess striped bass or striped bass hybrids between the lengths of 22 and 27 inches (total length) in joint fishing waters of the Central Southern Management Area as designated in 15A NCAC 03R .0201.
  - (c) It is unlawful to possess striped bass or striped bass hybrids May through September in the joint fishing waters of the Central Southern Management Area and the Albemarle Sound Management Area.
  - (d) It is unlawful to possess striped bass or striped bass hybrids taken from the joint fishing waters of the Cape Fear River.
  - (e) It is unlawful to possess more than one daily creel limit of striped bass or striped bass hybrids, in the aggregate, per person per day, regardless of the number of management areas fished.
  - (f) Possession of fish shall be assessed for the creel and size limits of the management area in which the individual is found to be fishing, regardless of the size or creel limits for other management areas visited by that individual in a given day.
  - (g) It is unlawful to engage in net fishing for striped bass or striped bass hybrids in joint waters except as authorized by rules of the Marine Fisheries Commission.
- (2) Lake Mattamuskeet:
  - (a) It is unlawful to set or attempt to set any gill net in Lake Mattamuskeet canals designated as joint waters.
  - (b) It is unlawful to use or attempt to use any trawl net or seines in Lake Mattamuskeet canals designated as joint waters.
- (3) Cape Fear River. It is unlawful to use or attempt to use any net, net stakes or electrical fishing device within 800 feet of the dam at Lock No.1 on the Cape Fear River.
- (4) Shad: It is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per person per day taken by hook-and-line.

*History Note: Authority G.S. 113-132; 113-134; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. July 1, 1993; November 1, 1991;  
Temporary Amendment Eff. May 1, 2000;  
Amended Eff. July 1, 2008; September 1, 2005; April 1, 2001; August 1, 2000.*

**15A NCAC 03Q .0108 MANAGEMENT RESPONSIBILITY FOR ESTUARINE STRIPED BASS IN JOINT WATERS**

(a) The management areas for estuarine striped bass fisheries in coastal North Carolina are designated in 15A NCAC 03R .0201.

(b) In order to effectively manage the recreational hook and line harvest in joint waters of the Albemarle Sound-Roanoke River stock of striped bass, the Marine Fisheries Commission and the Wildlife Resources Commission deem it necessary

to establish two management areas; the Albemarle Sound Management Area and the Roanoke River Management Area as designated in 15A NCAC 03R .0201. The Wildlife Resources Commission shall have principal management responsibility for the stock when it is in the joint and inland fishing waters of the Roanoke River Management Area. The Marine Fisheries Commission shall have principal management responsibility for the stock in the coastal, joint and inland waters of the Albemarle Sound Management Area. The annual quota for recreational harvest of the Albemarle-Roanoke striped bass stock shall be divided equally between the two management areas. Each commission shall implement management actions for recreational harvest within their respective management areas that will be consistent with the North Carolina Estuarine Striped Bass Fishery Management Plan.

*History Note:* Authority G.S. 113-132; 113-134; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. October 1, 2004; September 1, 1991.

**15A NCAC 03Q .0109 IMPLEMENTATION OF ESTUARINE STRIPED BASS MANAGEMENT PLANS:  
RECREATIONAL FISHING**

The Marine Fisheries and Wildlife Resources Commissions shall implement their respective striped bass management actions for recreational fishing pursuant to their respective rule-making powers. To preserve jurisdictional authority of each Commission, the following means are established through which management measures can be implemented by a single instrument in the following management areas:

- (1) In the Roanoke River Management Area, the exclusive authority to open and close seasons and areas, and establish size and creel limits whether inland or joint fishing waters shall be vested in the Wildlife Resources Commission. An instrument closing any management area in joint waters shall operate as and shall be a jointly issued instrument opening or closing seasons or areas to harvest in the Roanoke River management area.
- (2) In the Albemarle Sound Management Area, the exclusive authority to open and close seasons and areas and establish size and creel limits, whether coastal or joint fishing waters shall be vested in the Marine Fisheries Commission. The season shall close by proclamation if the quota is about to be exceeded. In the Albemarle Sound Management Area administered by the Marine Fisheries Commission, a proclamation affecting the harvest in joint and coastal waters, excluding the Roanoke River Management Area, shall automatically be implemented and effective as a Wildlife Resources Commission action in the inland waters and tributaries to the waters affected.

*History Note:* Authority G.S. 113-132; 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. October 1, 2004; September 1, 1991.

**SECTION .0200 – BOUNDARY LINES: COASTAL-JOINT-INLAND FISHING WATERS**

**15A NCAC 03Q .0201 SPECIFIC CLASSIFICATION OF WATERS**

The boundary lines of internal coastal waters which are specifically classified as inland, joint, or coastal fishing waters by agreement of the Marine Fisheries Commission and the Wildlife Resources Commission are described in 15A NCAC 03Q .0202 under the coastal counties in which such waters or portions thereof are located. Indentation indicates the waterbody named is tributary to the next preceding waterbody named and not so indented. The specific classification applies to the main stem of the described waterbody. A waterbody that is not specifically classified as inland, joint, or coastal fishing waters in 15A NCAC 03Q .0202 carries the same classification as that assigned to the waterbody of which it is tributary. The coastal fishing water are found within the area bound by a line running parallel to the shoreline three miles offshore in the Atlantic Ocean and the joint or inland fishing water boundary in internal waters that is listed. The joint waters are found within the area bound by the joint fishing water boundaries described in the rule and the inland water boundaries described. The inland waters are found within the area bound by the inland fishing water boundary description and the headwaters of that particular waterbody.

*History Note:* Authority G.S. 113-132; 113-134; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. August 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

**15A NCAC 03Q .0202 DESCRIPTIVE BOUNDARIES FOR COASTAL-JOINT-INLAND WATERS**

Descriptive boundaries for Coastal-Joint-Inland Waters referenced in 15A NCAC 03Q .0201 are as follows:

- (1) Beaufort County:

- (a) Pamlico - Tar River - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 32.2167' N - 77° 02.8701' W; running southwesterly along the east side of the railroad bridge to a point on the south shore 35° 32.0267' N - 77° 03.5179' W.
  - (i) All Manmade Tributaries - All manmade tributaries within this waterbody are designated as Joint.
- (b) Pungo River - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 34.2702' N - 76° 30.1354' W; running northeasterly to a point on the east shore 35° 34.3192' N - 76° 30.0238' W. Joint Waters east and Coastal Waters west of a line beginning at a point on the north shore 35° 32.0974' N - 76° 29.6067' W; running southerly to a point on the south shore 35° 30.2620' N - 76° 29.3843' W.
  - (i) Flax Pond Bay - All waters within this waterbody are designated as Coastal.
  - (ii) Upper Dowry Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 31.8946' N - 76° 32.1231' W; running northeasterly to a point on the east shore 35° 31.9656' N - 76° 32.0114' W.
  - (iii) Lower Dowry Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 32.4188' N - 76° 35.3924' W; running northeast to a point on the east shore 35° 32.4691' N - 76° 35.2748' W.
  - (iv) George Best Creek - All waters within this waterbody are designated as Coastal.
  - (v) Toms Creek - All waters within this waterbody are designated as Coastal.
  - (vi) Pantego Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the north shore 35° 31.9908' N - 76° 36.6105' W; running southerly along the Breakwater to a point 35° 31.6628' N - 76° 36.9840' W; running southwesterly to a point on the south shore 35° 31.5653' N - 76° 37.3832' W.
  - (vii) Pungo Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 29.9986' N - 76° 40.3564' W; running southerly to a point on the south shore 35° 29.8887' N - 76° 40.3262' W.
    - (A) Vale Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 31.0370' N - 76° 38.9044' W; running northeasterly to a point on the east shore 35° 31.0528' N - 76° 38.8536' W.
    - (B) Scotts Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 30.4264' N - 76° 40.1156' W; running easterly to a point on the east shore 35° 30.4264' N - 76° 39.9430' W.
    - (C) Smith Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 30.2844' N - 76° 40.2941' W; running southerly to a point on the south shore 35° 30.1982' N - 76° 40.2621' W.
  - (viii) Woodstock (Little) Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 30.5291' N - 76° 38.1600' W; running easterly to a point on the east shore 35° 30.4852' N - 76° 38.0278' W.
  - (ix) Jordan Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 27.7256' N - 76° 36.2159' W; running southerly to a point 35° 27.5587' N - 76° 36.2704' W; following the eastern shore to a point 35° 27.4651' N - 76° 36.3294' W; running southerly to a point on the south shore 35° 27.3429' N - 76° 36.4498' W.
  - (x) Satterthwaite Creek - Inland Waters northwest and Coastal Waters southeast of a line beginning at a point on the north shore 35° 25.2994' N - 76° 35.4281' W; running southerly to a point on the south shore 35° 25.1284' N - 76° 35.4949' W.
  - (xi) Wright Creek - Inland Waters southwest and Coastal Waters northeast of a line beginning at a point on the west shore 35° 24.8664' N - 76° 35.4240' W; running southeasterly to a point on the east shore 35° 24.7995' N - 76° 35.3086' W.
- (c) North Creek - Joint Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 25.1667' N - 76° 40.1042' W; running easterly to a point on the east shore 35° 25.0971' N - 76° 39.6340' W.
- (d) St. Clair Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 25.7691' N - 76° 42.6406' W; running easterly to a point on the east shore 35° 25.7695' N - 76° 42.5967' W.
- (e) Mixon Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 25.7601' N - 76° 46.5971' W; running easterly to a point 35° 25.7304' N - 76° 46.2547' W; following the southern shoreline to a point 35° 25.6878' N - 76° 46.2034' W; running southeasterly to a point 35° 25.6606' N - 76° 46.1892' W; following the southern

- shoreline to a point 35° 25.6267' N - 76° 46.1494' W; running southeasterly to a point on the east shore 35° 25.6166' N - 76° 46.1361' W.
- (f) Bath Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 27.1685' N - 76° 49.4087' W; running northeasterly to a point on the east shore 35° 27.2371' N - 76° 49.0969' W.
- (g) Duck Creek - Inland Waters northeast and Coastal Waters southwest of a line beginning at a point on the west shore 35° 27.5395' N - 76° 52.0074' W; running southerly to a point on the east shore 35° 27.4401' N - 76° 51.9827' W.
- (h) Mallard Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 27.6461' N - 76° 53.6398' W; running easterly to a point on the east shore 35° 27.6425' N - 76° 53.5816' W.
- (i) Upper Goose Creek - Inland Waters northeast and Coastal Waters southwest of a line beginning at a point on the west shore 35° 28.5346' N - 76° 56.0229' W; running southeasterly to a point on the east shore 35° 28.4014' N - 76° 55.8714' W.
- (j) Broad Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 29.1023' N - 76° 57.3738' W; running easterly to a point on the east shore 35° 29.1059' N - 76° 57.1188' W.
- (k) Herring Run (Runyan Creek) - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 32.1615' N - 77° 02.3606' W; running southeasterly to a point on the east shore 35° 32.1340' N - 77° 02.3438' W.
- (l) Chocowinity Bay - Inland Waters northwest and Coastal Waters southeast of a line beginning at a point on the west shore 35° 29.4751' N - 77° 01.8507' W; running northeasterly to a point on the east shore 35° 29.8780' N - 77° 01.3169' W.
- (m) Calf Tree Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the north shore 35° 29.2268' N - 77° 01.2973' W; running southeasterly to a point on the south shore 35° 29.2115' N - 77° 01.2831' W.
- (n) Hills Creek - Inland Waters south and Coastal waters north of a line beginning at a point on the west shore 35° 28.5227' N - 77° 00.2664' W; running easterly to a point on the east shore 35° 28.5193' N - 77° 00.2270' W.
- (o) Blounts Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 26.2010' N - 76° 58.1716' W; running southerly to a point on the south shore 35° 26.1369' N - 76° 58.1671' W.
- (p) Nevil Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 26.1117' N - 76° 54.5233' W; running southeasterly to a point on the east shore 35° 26.0966' N - 76° 54.5045' W.
- (q) Barris Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 24.8423' N - 76° 49.9928' W; running easterly to a point on the east shore 35° 24.8451' N - 76° 49.9745' W.
- (r) Durham Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 23.7824' N - 76° 49.3016' W; running easterly to a point on the east shore 35° 23.7821' N - 76° 48.8703' W.
- (s) Huddles Cut - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 22.5817' N - 76° 44.8727' W; running easterly to a point on the east shore 35° 22.5782' N - 76° 44.8594' W.
- (t) Huddy Gut - All waters within this waterbody are designated as Coastal.
- (u) South Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 18.9589' N - 76° 47.4298' W; running easterly to a point on the east shore 35° 18.9994' N - 76° 47.3007' W.
- (i) Tooleys Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 20.7080' N - 76° 44.8937' W; running northeasterly to a point on the east shore 35° 20.7440' N - 76° 44.8324' W.
- (ii) Drinkwater Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 20.1441' N - 76° 45.8262' W; running easterly to a point on the east shore 35° 20.1333' N - 76° 45.7530' W.
- (iii) Jacobs Creek - Inland Waters northwest and Coastal Waters southeast of a line beginning at a point on the north shore 35° 20.1420' N - 76° 45.8395' W; running southwesterly to a point on the south shore 35° 20.0692' N - 76° 45.8912' W.
- (iv) Jacks Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the north shore 35° 19.5455' N - 76° 47.0155' W; running southwesterly to a point on the south shore 35° 19.4986' N - 76° 47.0741' W.

- (v) Whitehurst Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 19.2878' N - 76° 47.4778' W; running southerly to a point on the south shore 35° 19.2295' N - 76° 47.4430' W.
- (vi) Little Creek - Inland Waters south and Coastal waters north of a line beginning at a point on the west shore 35° 18.9873' N - 76° 45.9292' W; running easterly to a point on the east shore 35° 19.0209' N - 76° 45.8258' W.
- (vii) Short Creek - Inland Waters southeast and Coastal Waters northwest of a line beginning at a point on the north shore 35° 20.1228' N - 76° 44.6031' W; running southwesterly to a point on the south shore 35° 20.0527' N - 76° 44.6667' W.
- (viii) Long Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 20.3050' N - 76° 44.3444' W; running northeasterly to a point on the east shore 35° 20.4185' N - 76° 43.8949' W.
- (ix) Bond Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 20.4231' N - 76° 42.0469' W; running southeasterly to a point on the east shore 35° 20.2539' N - 76° 41.8254' W.
- (x) Muddy Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 20.1523' N - 76° 41.2074' W; running northeasterly to a point on the east shore 35° 20.2413' N - 76° 41.0572' W.
- (v) Davis Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 20.7032' N - 76° 40.3404' W; running easterly to a point on the east shore 35° 20.7112' N - 76° 40.1637' W.
- (w) Strawhorn Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 20.4091' N - 76° 39.0998' W; running northeasterly to a point on the east shore 35° 20.4750' N - 76° 38.8874' W.
- (x) Lower Goose Creek - All waters within this waterbody are designated as Coastal.
  - (i) Lower Spring Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 19.7932' N - 76° 37.5347' W; running southerly to a point on the south shore 35° 19.4670' N - 76° 37.4134' W.
  - (ii) Peterson Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the west shore 35° 18.7722' N - 76° 37.5059' W; running northeasterly to a point on the east shore 35° 18.8406' N - 76° 37.4111' W.
  - (iii) Snode Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 18.2787' N - 76° 37.4679' W; running southwesterly to a point on the south shore 35° 18.0821' N - 76° 37.5544' W.
  - (iv) Campbell Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 17.1203' N - 76° 37.9248' W; running southerly to a point on the south shore 35° 16.8807' N - 76° 37.9101' W.
    - (A) Smith Creek - All waters within this waterbody are designated as Inland.
  - (v) Hunting Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 16.7523' N - 76° 36.8138' W; running easterly to a point on the east shore 35° 16.6779' N - 76° 36.5885' W.
- (2) Bertie County:
  - (a) Albemarle Sound - All waters within this waterbody are designated as Coastal.
    - (i) All Manmade Tributaries - All manmade tributaries within this waterbody are designated as Joint.
    - (ii) Roanoke River - Joint Waters south and Coastal Waters north of a line beginning at a point on the west shore of the Roanoke River 35° 56.5068' N - 76° 41.8858' W; running easterly to a point on the east shore 35° 56.5324' N - 76° 41.5896' W.
      - (A) Sandy Run (Norfleet Gut) - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 10.1119' N - 77° 17.5396' W; running northeasterly to a point on the east shore 36° 10.1172' N - 77° 17.5316' W.
      - (B) Quinine - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 09.6041' N - 77° 15.9091' W; running easterly to a point on the east shore 36° 09.6068' N - 77° 15.8912' W.
      - (C) Wire Gut - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 00.9580' N - 77° 13.0755' W; running easterly to a point on the east shore 36° 00.9542' N - 77° 13.0320' W.
      - (D) Apple Tree Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 36° 00.4174' N - 77° 12.3252' W;

- running southeasterly to a point on the south shore 36° 00.3987' N - 77° 12.3088' W.
- (E) Indian Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 59.0794' N - 77° 11.4926' W; running southerly to a point on the south shore 35° 59.0597' N - 77° 11.4967' W.
  - (F) Coniott Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 56.6562' N - 77° 04.2860' W; running southwesterly to a point on the south shore 35° 56.6397' N - 77° 04.3066' W.
  - (G) Conine Creek - All waters within this waterbody are designated as Joint.
  - (H) Old Mill Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 53.9483' N - 76° 55.3921' W; running southeasterly to a point on the east shore 35° 53.9378' N - 76° 55.3710' W.
  - (I) Cut Cypress Creek - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the north shore 35° 51.9465' N - 76° 53.5762' W; running southeasterly to a point on the south shore 35° 51.9229' N - 76° 53.5556' W.
  - (J) Broad Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 52.5191' N - 76° 50.4235' W; running southerly to a point on the south shore 35° 52.4262' N - 76° 50.3791' W.
  - (K) Thoroughfare - All waters within this waterbody are designated as Joint.
- (iii) Cashie River - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 54.7865' N - 76° 49.0521' W; running southerly to a point on the south shore 35° 54.6691' N - 76° 49.0553' W. Joint Waters south and west and Coastal Waters north and east of a line beginning at a point on the west shore 35° 56.2934' N - 76° 44.1769' W; running easterly to a point on the north shore of an island in the mouth of the river 35° 56.2250' N - 76° 43.9265' W. Joint Waters west and Coastal Waters east of a line beginning at a point on the south shore of an island in the mouth of the river 35° 56.1254' N - 76° 43.9846' W; running southerly to a point on the south shore 35° 56.0650' N - 76° 43.9599' W.
    - (A) Cashoke Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 56.2934' N - 76° 44.1769' W; running southwesterly to a point on the south shore 35° 56.2623' N - 76° 44.1993' W.
    - (B) Broad Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 35° 55.0568' N - 76° 45.2632' W; running easterly to a point on the east shore 35° 55.0543' N - 76° 45.1309' W.
    - (C) Grinnel Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 55.3147' N - 76° 44.5010' W; running southerly to a point on the south shore 35° 55.2262' N - 76° 44.5495' W.
  - (iv) Middle River - All waters within this waterbody are designated as Joint.
  - (v) Eastmost River - Joint Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 56.5024' N - 76° 42.4877' W; running westerly to a point on the east shore 35° 56.4070' N - 76° 42.7647' W.
  - (vi) Mud Gut - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 53.2880' N - 76° 45.4463' W; running southwesterly to a point on the south shore 35° 53.2527' N - 76° 45.4678' W.
- (b) Black Walnut Swamp - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 59.4680' N - 76° 40.9556' W; running southerly to a point on the south shore 35° 59.3946' N - 76° 40.9629' W.
  - (c) Salmon Creek - Inland Waters southwest and Coastal Waters northeast of a line beginning at a point on the north shore 36° 00.4648' N - 76° 42.3513' W; running southeasterly to a point on the south shore 36° 00.3373' N - 76° 42.1499' W.
  - (d) Chowan River - Joint Waters northwest and Coastal Waters southeast of a line beginning at a point on the west shore 36° 02.3162' N - 76° 42.4896' W; running northeasterly to a point on the east shore 36° 03.1013' N - 76° 40.8732' W.
    - (i) Barkers Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 14.0709' N - 76° 44.2451' W; running southerly to a point on the south shore 36° 14.0492' N - 76° 44.2456' W.

- (ii) Willow Branch - Inland Waters southwest and Joint Waters northeast of a line beginning at a point on the north shore 36° 04.7206' N - 76° 43.7667' W; running southeasterly to a point on the south shore 36° 04.7138' N - 76° 43.7580' W.
  - (iii) Keel (Currituck) Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 14.1245' N - 76° 44.1961' W; running easterly to a point on the east shore 36° 14.0899' N - 76° 43.8533' W.
- (3) Bladen County:
- (a) Cape Fear River - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 34° 24.2628' N - 78° 17.6390' W; running northeasterly along the Lock and Dam # 1 to a point on the east shore 34° 24.2958' N - 78° 17.5634' W.
  - (i) Natmore Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 34° 24.2841' N - 78° 16.4405' W; running easterly to a point on the east shore 34° 24.2852' N - 78° 16.4039' W.
- (4) Brunswick County:
- (a) Calabash River And Tributaries - All waters within this waterbody are designated as Coastal.
  - (b) Saucepan Creek - All waters within this waterbody are designated as Coastal.
  - (c) Shallotte River - Inland Waters northwest and Coastal Waters southeast of a line beginning at a point on the south shore 33° 58.3412' N - 78° 23.1948' W; running northeasterly to a point on the north shore 33° 58.3518' N - 78° 23.1816' W.
    - (i) Mill Dam Branch - All waters within this waterbody are designated as Coastal.
    - (ii) Squash Creek - All waters within this waterbody are designated as Coastal.
    - (iii) Mill Pond - All waters within this waterbody are designated as Coastal.
    - (iv) Charles Branch - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 33° 58.6276' N - 78° 21.2919' W; running easterly to a point on the east shore 33° 58.6257' N - 78° 21.2841' W.
    - (v) Grisset Swamp - All waters within this waterbody are designated as Coastal.
    - (vi) Little Shallotte River And Tributaries - All waters within this waterbody are designated as Coastal.
  - (d) Lockwood Folly River - Inland Waters northeast and Coastal Waters southwest of a line beginning at a point on the north shore 34° 00.6550' N - 78° 15.8134' W; running southeasterly along the south side of NC Hwy 211 bridge to a point on the south shore 34° 00.6285' N - 78° 15.7928' W.
    - (i) Stanberry Creek - All waters within this waterbody are designated as Coastal.
    - (ii) Pompeys Creek - All waters within this waterbody are designated as Coastal.
    - (iii) Maple Creek - All waters within this waterbody are designated as Coastal.
    - (iv) Rubys Creek - All waters within this waterbody are designated as Coastal.
    - (v) Big Doe Creek - All waters within this waterbody are designated as Coastal.
    - (vi) Lennons Creek - All waters within this waterbody are designated as Coastal.
    - (vii) Mercers Mill Pond Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 33° 57.7498' N - 78° 12.3532' W; running southeasterly to a point on the east shore 33° 57.7439' N - 78° 12.3440' W.
  - (e) Elizabeth River - All waters within this waterbody are designated as Coastal.
    - (i) Ash Creek - All waters within this waterbody are designated as Coastal.
  - (f) Beaverdam Creek - All waters within this waterbody are designated as Coastal.
  - (g) Dutchman Creek - All waters within this waterbody are designated as Coastal.
    - (i) Calf Gully Creek - All waters within this waterbody are designated as Coastal.
    - (ii) Jumpin Run - All waters within this waterbody are designated as Coastal.
    - (iii) Fiddlers Creek - All waters within this waterbody are designated as Coastal.
  - (h) Cape Fear River - Joint Waters north and Coastal Waters south of a line beginning at a point on the western side 34° 13.6953' N - 77° 57.2396' W; running southeasterly along the southern side of US 17-74-76 bridge to a point on the eastern side 34° 13.6214' N - 77° 57.0341' W.
    - (i) Duke Energy Progress Brunswick Nuclear Plant Intake Canal - All waters within this waterbody are designated as Coastal.
    - (ii) Walden Creek - All waters within this waterbody are designated as Coastal.
    - (iii) Orton Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 02.8436' N - 77° 56.7498' W; running southerly to a point on the south shore 34° 02.8221' N - 77° 56.7439' W.
    - (iv) Lilliput Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 04.1924' N - 77° 56.5361' W; running southerly to a point on the south shore 34° 04.1487' N - 77° 56.5447' W.

- (v) Sandhill Creek - Inland Waters southwest and Coastal Waters northeast of a line beginning at a point on the north shore 34° 06.9584' N - 77° 57.0085' W; running southeasterly to a point on the south shore 34° 06.9371' N - 77° 56.9943' W.
  - (vi) Town Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 07.7492' N - 77° 57.3445' W; running southerly to a point on the south shore 34° 07.7034' N - 77° 57.3431' W.
  - (vii) Mallory Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 09.9868' N - 77° 58.2023' W; running southerly to a point on the south shore 34° 09.9618' N - 77° 58.2133' W.
  - (viii) Brunswick River - Joint Waters northwest and Coastal Waters southeast of a line beginning at a point on the south shore 34° 10.7281' N - 77° 57.7793' W; running northeasterly to a point on the north shore 34° 10.9581' N - 77° 57.6452' W.
    - (A) Alligator Creek:
      - (I) Southernmost entrance: Inland Waters east and Joint Waters west of a line beginning at a point on the south shore 34° 13.5040' N - 77° 58.6331' W; running northwesterly to a point on the north shore 34° 13.5472' N - 77° 58.6628' W; and
      - (II) Northernmost entrance: Inland Waters east and Joint Waters west of a line beginning at a point on the south shore 34° 14.4300' N - 77° 59.2346' W; running northerly to a point on the north shore 34° 14.4618' N - 77° 59.2300' W.
    - (B) Jackeys Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the south shore 34° 11.9400' N - 77° 58.5859' W; running northerly to a point on the north shore 34° 11.9565' N - 77° 58.5859' W.
    - (C) Sturgeon Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 34° 14.6761' N - 77° 59.4145' W; running southerly to a point on the south shore 34° 14.6404' N - 77° 59.4058' W.
  - (ix) Cartwheel Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 34° 15.7781' N - 77° 59.3852' W; running southerly to a point on the south shore 34° 15.7564' N - 77° 59.3898' W.
  - (x) Indian Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 34° 17.0441' N - 78° 00.3662' W; running southwestly to a point on the south shore 34° 17.0006' N - 78° 00.3977' W.
  - (xi) Hood Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 34° 20.3713' N - 78° 04.7492' W; running southwestly to a point on the south shore 34° 20.3393' N - 78° 04.7373' W.
  - (xii) Northwest Creek - All waters within this waterbody are designated as Inland.
- (5) Camden County:
- (a) Albemarle Sound - All waters within this waterbody are designated as Coastal.
    - (i) All Manmade Tributaries - All manmade tributaries within this waterbody are designated as Joint.
    - (ii) Pasquotank River - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 18.0768' N - 76° 13.0979' W; running easterly along the south side of the Highway 158 Bridge to a point on the east shore 36° 18.0594' N - 76° 12.9620' W. Joint Waters west and Coastal Waters east of a line beginning at a point on the north shore 36° 11.4282' N - 76° 01.2876' W; running southwestly to a point on the south shore 36° 08.7563' N - 76° 03.6991' W.
      - (A) Raymond Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 14.0746' N - 76° 03.3952' W; running easterly to a point on the east shore 36° 14.0711' N - 76° 03.3668' W.
      - (B) Portohonk Creek - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the west shore 36° 15.0519' N - 76° 05.2793' W; running southeasterly to a point on the east shore 36° 15.0391' N - 76° 05.2532' W.
      - (C) Areneuse Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 17.3133' N - 76° 08.1655' W; running southeasterly to a point on the east shore 36° 17.1328' N - 76° 07.6269' W.
  - (iii) North River - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 18.7703' N - 75° 58.7384' W; running southerly to a point on

the south shore 36° 18.4130' N- 75° 58.7228' W. Joint Waters north and Coastal Waters south of a line beginning at a point on the west shore 36° 09.8986' N - 75° 54.6771' W; running easterly to a point on the east shore 36° 10.0108' N - 75° 52.0431' W.

- (A) Wading Gut - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 36° 10.6054' N - 75° 55.9529' W; running southeasterly to a point on the east shore 36° 10.5777' N - 75° 55.8654' W.
  - (B) Little Broad Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 36° 11.6530' N - 75° 57.2035' W; running southeasterly to a point on the east shore 36° 11.5587' N - 75° 56.9160' W.
  - (C) Broad Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 12.2197' N - 75° 57.2685' W; running southerly to a point on the south shore 36° 11.6766' N - 75° 57.2254' W.
  - (D) Hunting Creek - Inland Waters southwest and Joint Waters northeast of a line beginning at a point on the north shore 36° 15.0480' N - 75° 57.5820' W; running southeasterly to a point on the south shore 36° 14.9308' N - 75° 57.4635' W.
  - (E) Abel Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 15.9530' N - 75° 58.0348' W; running southerly to a point on the south shore 36° 15.8553' N - 75° 58.0842' W.
  - (F) Back Landing Creek - Inland Waters northwest and Joint Waters southeast of a line beginning at a point on the north shore 36° 16.4746' N - 76° 07.6377' W; running southwesterly to a point on the south shore 36° 16.2030' N - 76° 57.8897' W.
  - (G) Public Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 17.2462' N - 75° 58.2774' W; running southerly to a point on the south shore 36° 17.2121' N - 75° 58.2788' W.
  - (H) Cow Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 17.8667' N - 75° 58.3483' W; running southerly to a point on the marsh island 36° 17.7600' N - 75° 58.3300' W; running southerly following the eastern shoreline of the island to a point 36° 17.7122' N - 75° 58.3273' W; running southwesterly to a point on the south shore 36° 17.6522' N - 75° 58.3543' W.
  - (I) Great Creek:
    - (I) Mouth: Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 18.1045' N - 75° 58.4289' W; running southerly to a point on the south shore 36° 17 9882' N - 75° 58.4458' W; and
    - (II) On north shore of Great Creek within the fourth tributary: Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 36° 18.1729' N - 75° 58.9137' W; running southeasterly to a point on the south shore 36° 18.1640' N - 75° 58.9022' W.
  - (J) Indiantown Creek - All waters within this waterbody are designated as Inland.
- (6) Carteret County:
- (a) Neuse River - All waters within this waterbody are designated as Coastal.
    - (i) Adams Creek - All waters within this waterbody are designated as Coastal.
      - (A) Back (Black) Creek - All waters within this waterbody are designated as Coastal.
      - (B) Cedar Creek - All waters within this waterbody are designated as Coastal.
    - (ii) Garbacon Creek - All waters within this waterbody are designated as Coastal.
    - (iii) South River - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 34° 53.5068' N - 76° 31.1233' W; running northeasterly to a point on the east shore 34° 53.4494' N - 76° 31.3032' W.
      - (A) Big Creek - All waters within this waterbody are designated as Coastal.
      - (B) Southwest Creek - All waters within this waterbody are designated as Coastal.
      - (C) West Fork - All waters within this waterbody are designated as Inland.
      - (D) East Creek - All waters within this waterbody are designated as Inland.

- (E) Eastman Creek - All waters within this waterbody are designated as Coastal.
- (iv) Browns Creek - All waters within this waterbody are designated as Coastal.
- (b) North River - All waters within this waterbody are designated as Coastal.
  - (i) Panter Cat Creek - All waters within this waterbody are designated as Coastal.
  - (ii) Cypress Creek - All waters within this waterbody are designated as Coastal.
- (c) Newport River - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 45.2478' N - 76° 46.4479' W; running southerly to a point on the south shore 34° 45.1840' N - 76° 46.4488' W.
  - (i) Core Creek - All waters within this waterbody are designated as Coastal.
  - (ii) Harlowe Creek - All waters within this waterbody are designated as Coastal.
  - (iii) Bogue Sound And Tributaries - All waters within these waterbodies are designated as Coastal.
- (d) White Oak River - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 34° 48.1466' N - 77° 11.4711' W; running easterly to a point on the east shore 34° 48.1620' N - 77° 11.4244' W.
  - (i) Pettiford Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 42.6935' N - 77° 04.0745' W; running along the west side of the Highway 58 bridge to a point on the south shore 34° 42.6569' N - 77° 04.0786' W.
  - (ii) Little Hadnotts Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 34° 45.0839' N - 77° 06.5931' W; running northerly to an easterly point on the east shore 34° 45.0867' N - 77° 06.5780' W.
  - (iii) Hadnotts Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 45.9908' N - 77° 05.7847' W; running along the west side of the Highway 58 bridge to a point on the south shore 34° 45.9738' N - 77° 05.7810' W.
  - (iv) Neds Creek - All waters within this waterbody are designated as Coastal.
  - (v) Hunters Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the northwest shore 34° 47.1205' N - 77° 09.9462' W; running southeasterly to a point on the southeast shore 34° 47.0947' N - 77° 09.9160' W.
- (7) Chowan County:
  - (a) Albemarle Sound - All waters within this waterbody are designated as Coastal.
    - (i) All Manmade Tributaries - All manmade tributaries within this waterbody are designated as Joint.
    - (ii) Yeopim River - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 05.4526' N - 76° 27.7651' W; running southerly to a point on the south shore at Norcum Point 36° 05.1029' N - 76° 27.7120' W. Joint Waters west and Coastal Waters east of a line beginning at a point on the north shore 36° 04.7426' N - 76° 24.2536' W; running southwesterly to a point on the south shore 36° 04.1136' N - 76° 24.5365' W.
    - (iii) Queen Anne Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 36° 03.3757' N - 76° 36.3629' W; running southerly to a point on the south shore 36° 03.3551' N - 76° 36.3574' W.
    - (iv) Pembroke Creek (Pollock Swamp) - Inland Waters west and Coastal Waters east of a line beginning at a point on the west shore 36° 03.2819' N - 76° 37.0138' W; running northeasterly to a point on the east shore 36° 03.4185' N - 76° 36.6783' W.
    - (v) Chowan River - Joint Waters northwest and Coastal Waters southeast of a line beginning at a point on the west shore 36° 02.3162' N - 76° 42.4896' W; running northeasterly to a point on the east shore 36° 03.1013' N - 76° 40.8732' W.
      - (A) Rocky Hock Creek - Inland Waters east and Joint Waters west of a line beginning on the west shore at a point 36° 06.5662' N - 76° 41.3108' W; running southeasterly to a point on the east shore at 36° 06.6406' N - 76° 41.4512' W.
      - (B) Dillard (Indian) Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 36° 14.2234' N - 76° 41.5901' W; running southerly to a point on the south shore 36° 14.2023' N - 76° 41.5855' W.
      - (C) Stumpy Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 36° 16.6440' N - 76° 40.4251' W; running southerly to a point on the south shore 36° 16.6255' N - 76° 40.4196' W.

- (D) Catherine (Warwick) Creek - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the west shore  $36^{\circ} 18.1011' N - 76^{\circ} 41.1286' W$ ; running southeasterly to a point on the east shore  $36^{\circ} 17.9413' N - 76^{\circ} 40.8627' W$ .
- (8) Columbus County:
- (a) Cape Fear River - All waters within this waterbody are designated as Joint.
- (i) Livingston Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore  $34^{\circ} 21.1518' N - 78^{\circ} 12.0358' W$ ; running easterly to a point on the east shore  $34^{\circ} 21.1420' N - 78^{\circ} 12.0018' W$ .
- (ii) Waymans Creek - Inland Waters southwest and Joint Waters northeast of a line beginning at a point on the west shore  $34^{\circ} 22.9861' N - 78^{\circ} 14.5266' W$ ; running southeasterly to a point on the east shore  $34^{\circ} 22.9838' N - 78^{\circ} 14.5236' W$ .
- (9) Craven County:
- (a) Neuse River - Inland Waters west and Joint Waters east of a line at Pitch Kettle Creek beginning at a point on the north shore  $35^{\circ} 16.9793' N - 77^{\circ} 15.5529' W$ ; running south to a point on the south shore  $35^{\circ} 16.9237' N - 77^{\circ} 15.5461' W$ . Joint Waters northwest and Coastal Waters southeast of a line beginning at a point on the east shore  $35^{\circ} 07.7096' N - 77^{\circ} 01.6749' W$ ; running southwesterly along the southern side of the Southern Railroad bridge to a point on the west shore  $35^{\circ} 07.1530' N - 77^{\circ} 02.5570' W$ .
- (i) Adams Creek - All waters within this waterbody are designated as Coastal.
- (A) Back Creek - All waters within this waterbody are designated as Coastal.
- (ii) Courts Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore  $34^{\circ} 56.6958' N - 76^{\circ} 42.7175' W$ ; running southwesterly to a point on the south shore  $34^{\circ} 56.6606' N - 76^{\circ} 42.7450' W$ .
- (iii) Long Branch - Inland Waters south and Coastal Waters north of a line beginning on the west shore  $34^{\circ} 55.6189' N - 76^{\circ} 43.8180' W$ ; running easterly to a point on the east shore  $34^{\circ} 55.6175' N - 76^{\circ} 43.7846' W$ .
- (iv) Clubfoot Creek - All waters within this waterbody are designated as Coastal.
- (A) Gulden Creek - All waters within this waterbody are designated as Coastal.
- (B) Mitchell Creek - All waters within this waterbody are designated as Coastal.
- (C) Morton Mill Pond - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore  $34^{\circ} 51.9245' N - 76^{\circ} 45.7754' W$ ; running southerly to a point on the south shore  $34^{\circ} 51.7799' N - 76^{\circ} 45.8184' W$ .
- (v) Hancock Creek - Coastal Waters east and Inland Waters west of a line beginning on the north shore at  $34^{\circ} 56.3420' N - 76^{\circ} 51.2809' W$ ; running southerly to a point on the south shore at  $34^{\circ} 56.2731' N - 76^{\circ} 51.3034' W$ .
- (vi) Slocum Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore at  $34^{\circ} 57.1875' N - 76^{\circ} 53.7648' W$ ; running southwesterly to a point on the south shore  $34^{\circ} 57.1334' N - 76^{\circ} 53.8069' W$ .
- (vii) Scott Creek - Inland Waters west and Coastal Waters east of a line from a point on the north shore  $35^{\circ} 05.5723' N - 77^{\circ} 02.0677' W$ ; running southerly to a point on the south shore  $35^{\circ} 05.5316' N - 77^{\circ} 02.0745' W$ .
- (viii) Trent River - Inland Waters west and Joint Waters east of a line at Wilson Creek beginning at a point on the north shore  $35^{\circ} 04.05490' N - 77^{\circ} 06.0987' W$ ; running southerly to a point on the south shore  $35^{\circ} 04.3837' N - 77^{\circ} 06.1230' W$ . Joint Waters west and Coastal Waters east of a line on the western side of the Highway 70 Trent River Bridge beginning at a point on the north shore  $35^{\circ} 06.2136' N - 77^{\circ} 02.1968' W$ ; running southerly to a point on the south shore  $35^{\circ} 05.9351' N - 77^{\circ} 02.2645' W$ .
- (A) Brice Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore  $35^{\circ} 04.5114' N - 77^{\circ} 03.6433' W$ ; running easterly to a point on the east shore  $35^{\circ} 04.5634' N - 77^{\circ} 03.4469' W$ .
- (ix) Jack Smith Creek - Inland Waters southwest and Joint Waters northeast of a line beginning on the west shore  $35^{\circ} 07.5482' N - 77^{\circ} 03.1613' W$ ; running southeasterly to a point on the east shore  $35^{\circ} 07.5320' N - 77^{\circ} 03.1338' W$ .
- (x) Bachelor Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore  $35^{\circ} 09.0099' N - 77^{\circ} 04.5858' W$ ; running southerly to a point on the south shore  $35^{\circ} 08.9085' N - 77^{\circ} 04.7172' W$ .

- (xi) Dollys Gut - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 13.6303' N - 77° 09.9847' W; running southerly to a point on the south shore 35° 13.5937' N - 77° 09.9778' W.
  - (xii) Greens Thorofare:
    - (A) Easternmost entrance: Inland Waters northwest and Joint Waters southeast of a line beginning at a point on the north shore 35° 13.7807' N - 77° 09.9224' W; running southwesterly to a point on the south shore 35° 13.7587' N - 77° 09.9728' W; and
    - (B) Westernmost entrance: Inland Waters south and Joint Waters north of a line beginning on the west shore 35° 14.1398' N - 77° 11.5530' W; running easterly to a point on the east shore 35° 14.1481' N - 77° 11.5036' W.
  - (xiii) Greens Creek - Inland Waters west and Joint Waters east of a line beginning on the north shore 35° 14.1883' N - 77° 11.8862' W; running southeasterly to a point on the south shore 35° 14.1389' N - 77° 11.7535' W.
  - (xiv) Turkey Quarter Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 35° 15.6738' N - 77° 14.6823' W; running southeasterly to a point on the east shore 35° 15.6534' N - 77° 14.6470' W.
  - (xv) Pitch Kettle Creek - All waters within this waterbody are designated as Inland.
  - (xvi) Taylors Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 14.3719' N - 77° 10.8050' W; running southwesterly to a point on the south shore 35° 14.3300' N - 77° 10.8352' W.
  - (xvii) Pine Tree Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 12.6663' N - 77° 07.4285' W; running southwesterly to a point on the south shore 35° 12.7033' N - 77° 07.3594' W. Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 12.8553' N - 77° 07.8300' W; running easterly to a point on the east shore 35° 12.8372' N - 77° 07.7934' W. Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 13.2012' N - 77° 08.7753' W; running southeasterly to a point on the east shore 35° 13.1714' N - 77° 08.7071' W.
  - (xviii) Stumpy Creek:
    - (A) Southernmost entrance: Inland Waters northwest and Joint Waters southeast of a line beginning at a point on the north shore 35° 11.5752' N - 77° 06.1866' W; running southwesterly to a point on the south shore 35° 11.5550' N - 77° 06.2411' W; and
    - (B) Northernmost entrance: Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 11.9377' N - 77° 06.7263' W; running southeasterly to a point on the south shore 35° 11.9169' N - 77° 06.7044' W.
  - (xix) Swift Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 11.5972' N - 77° 06.0562' W; running easterly to a point on the east shore 35° 11.5816' N - 77° 05.9861' W.
  - (xx) Mill Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 08.5041' N - 77° 02.3400' W; running south easterly to a point on the south shore 35° 08.4711' N - 77° 02.3176' W.
  - (xxi) Duck Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the north shore 35° 05.7648' N - 77° 00.5191' W; running south easterly to a point on the south shore at 35° 05.6803' N - 77° 00.4179' W.
  - (xxii) Northwest Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 03.5096' N - 76° 58.2604' W; running northeasterly to a point on the east shore at 35° 03.5948' N - 76° 58.0297' W.
  - (xxiii) Upper Broad Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 04.5050' N - 76° 56.5269' W; running easterly along the Tideland EMC power lines to a point on the east shore at 35° 04.4705' N - 76° 56.2115' W.
- (10) Currituck County:
- (a) Albemarle Sound - All waters within this waterbody are designated as Coastal.
    - (i) All Manmade Tributaries - All manmade tributaries within this waterbody are designated as Joint.
    - (ii) North River - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 18.7703' N - 75° 58.7384' W; running southerly to a point on

- the south shore 36° 18.4130' N - 75° 58.7228' W. Joint Waters north and Coastal Waters south of a line beginning on the west shore 36° 09.8986' N - 75° 54.6771' W; running easterly to a point on the east shore 36° 10.0108' N - 75° 52.0431' W.
- (A) Duck Creek - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the west shore 36° 12.4056' N - 75° 54.2967' W; running southeasterly to a point on the east shore 36° 12.1865' N - 75° 54.0298' W.
- (B) Barnett Creek - Inland Waters northeast and Joint Waters southwest of line beginning at a point on the north shore 36° 14.2405' N - 75° 55.0112' W; running southeasterly to a point on the south shore 36° 14.0956' N - 75° 54.9774' W.
- (C) Lutz Creek - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the north shore 36° 14.7397' N - 75° 55.4914' W; running southeasterly to a point on the east shore 36° 14.4948' N - 75° 55.1989' W.
- (D) Goose Creek:
- (I) Southernmost entrance: Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 15.5152' N - 75° 57.0936' W; running easterly to a point on the east shore 36° 15.4016' N - 75° 56.7842' W; and
- (II) Northernmost entrance: Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 36° 16.0334' N - 75° 57.1018' W; running easterly to a point on the east shore 36° 16.0301' N - 75° 57.0629' W.
- (E) Deep Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 36° 17.1576' N - 75° 56.7594' W; running southerly to a point on the south shore 36° 16.9846' N - 75° 56.6802' W.
- (F) Narrow Ridges Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 36° 18.3249' N - 75° 57.8910' W; running southerly to a point on the south shore 36° 18.1388' N - 75° 57.9029' W.
- (G) Bump Landing Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 36° 19.3757' N - 75° 57.9057' W; running southerly to a point on the south shore 36° 19.2496' N - 75° 57.9107' W.
- (H) Taylor Bay - All waters within this waterbody are designated as Joint.
- (I) Intracoastal Waterway From Taylor Bay To Coinjock Bay - All waters within this part of the Intracoastal Waterway are designated as Joint.
- (J) Indiantown Creek - All waters within this waterbody are designated as Inland.
- (b) Currituck Sound - Joint Waters north and Coastal Waters south of a line beginning at a point on the west shore of Currituck Sound 36° 04.8195' N - 75° 47.4101' W; running easterly to a point on the east shore 36° 05.5739' N - 75° 44.5729' W.
- (i) All Manmade Tributaries - All manmade tributaries within this waterbody are designated as Joint.
- (ii) Coinjock Bay - All waters within this waterbody are designated as Joint.
- (iii) Nelson (Nells) Creek:
- (A) Northernmost entrance: Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 36° 16.5806' N - 75° 52.1168' W; running northeasterly to a point on the east shore 36° 16.6410' N - 75° 51.9580' W; and
- (B) Southernmost entrance: Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 15.9816' N - 75° 51.7245' W; running southerly to a point on the south shore 36° 15.8640' N - 75° 51.6897' W.
- (iv) Hog Quarter Creek:
- (A) Northernmost entrance: Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 07.7400' N - 75° 48.6254' W; running southerly to a point on the south shore 36° 07.7210' N - 75° 48.6135' W; and

- (B) Southernmost entrance: Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 07.4118' N - 75° 48.4986' W; running southerly to a point on the south shore 36° 07.3532' N - 75° 48.5110' W.
  - (v) Parkers Creek - Inland Waters northwest and Joint Waters southeast of a line beginning on the west shore 36° 22.1079' N - 75° 55.5459' W; running northeasterly to a point on the east shore 36° 22.1607' N - 75° 55.4512' W. Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 36° 22.3928' N - 75° 55.6970' W; running northeasterly to a point on the east shore 36° 22.4011' N - 75° 55.6782' W.
  - (vi) North Landing River - All waters within this waterbody are designated as Joint.
    - (A) Northwest River - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore of 36° 30.8374' N - 76° 04.8770' W; running southerly to a point on the south shore 36° 30.7061' N - 76° 04.8916' W.
      - (I) Gibbs Canal - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 32.2322' N - 76° 01.8923' W; running southerly to a point on the south shore 36° 32.1997' N - 76° 01.8937' W.
      - (II) Tull Creek - Inland Waters southwest and Joint Waters northeast of a line beginning at a point on the north shore 36° 30.0991' N - 76° 04.8587' W; running southeasterly to a point on the south shore 36° 29.9599' N - 76° 04.7126' W.
    - (B) West Landing - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 30.9867' N - 76° 02.5868' W; running easterly to a point on the east shore 36° 31.0045' N - 76° 02.3780' W.
- (11) Dare County:
- (a) Alligator River - Coastal Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 54.2903' N - 76° 01.6818' W; running along the south side of the US 64 bridge to a point on the east shore 35° 53.6835' N - 75° 58.8578' W.
    - (i) Whipping Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 41.3930' N - 76° 00.2481' W; running southerly to a point on the south shore 35° 41.3717' N - 76° 00.2554' W.
    - (ii) Swan Creek and Lake - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 40.2674' N - 76° 00.7360' W; running southerly to a point on the south shore 35° 40.2420' N - 76° 00.7548' W.
    - (iii) Milltail Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 50.5192' N - 75° 58.6134' W; running southerly to a point on the south shore 35° 50.4956' N - 75° 58.6158' W.
    - (iv) Laurel Bay Lake (Creek) - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 52.4036' N - 75° 58.8560' W; running southerly to a point on the south shore 35° 52.3960' N - 75° 58.8528' W.
    - (v) East Lake - Coastal Waters west and Inland Waters east of a line beginning at a point on the north shore 35° 56.1676' N - 75° 55.2603' W; running southerly to a point on the south shore 35° 55.4727' N - 75° 55.5043' W. Joint Waters north and Inland Waters south of a line beginning at a point on the west shore 35° 58.6402' N - 75° 52.1855' W; running easterly to a point on the east shore 35° 58.5887' N - 75° 51.7080' W.
  - (b) Albemarle Sound - All waters within this waterbody are designated as Coastal.
    - (i) All Manmade Tributaries - All manmade tributaries within this waterbody are designated as Joint.
    - (ii) Kitty Hawk Bay - Joint Waters north and Coastal Waters south of a line beginning at a point on the west shore 36° 03.1967' N - 75° 44.3087' W; running easterly to a point on the east shore 36° 03.1871' N - 75° 44.2716' W. Joint Waters east and Coastal Waters west of a line beginning at a point on the north shore 36° 03.1338' N - 75° 44.2423' W; running southerly to a point on the south shore 36° 03.0919' N - 75° 44.2533' W. Joint Waters east and Coastal Waters west of a line beginning at a point on the north shore 36° 02.9960' N - 75° 44.2840' W; running southerly to a point on the south shore 36° 02.9592' N - 75° 44.2291' W. Joint Waters east and Coastal Waters west of a line beginning at a point on the north shore 36° 02.4964' N - 75° 44.2089' W; running southerly to a point on the south shore 36° 01.3270' N - 75° 43.6422' W.

- (iii) Peter Mashoes Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 57.2344' N - 75° 48.3087' W; running southerly to a point on the south shore 35° 56.7805' N - 75° 48.3563' W.
- (iv) Tom Mann Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 58.5296' N - 75° 52.8982' W; running easterly to a point on the east shore 35° 58.5175' N - 75° 53.6851' W.
- (v) Collington Harbor - Joint Waters east and Coastal Waters west of a line beginning at a point on the north shore 36° 01.0828' N - 75° 43.6070' W; running southerly to a point on the south shore 36° 01.0510' N - 75° 43.6015' W.
- (c) Croatan Sound - All waters within this waterbody are designated as Coastal.
  - (i) All Manmade Tributaries - All manmade tributaries within this waterbody are designated as Joint.
  - (ii) Spencer Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 51.4205' N - 75° 45.0645' W; running southerly to a point on the south shore 35° 51.3876' N - 75° 45.0640' W. Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 51.5597' N - 75° 45.0141' W; running southerly to a point on the south shore 35° 51.4624' N - 75° 45.0498' W. Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 51.6783' N - 75° 44.9125' W; running southerly to a point on the south shore 35° 51.5693' N - 75° 45.0109' W.
  - (iii) Calahan Creek (Callaghan Creek) - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 51.1312' N - 75° 45.1327' W; running southwesterly to a point on the south shore 35° 51.0953' N - 75° 45.1629' W.
- (d) Roanoke Sound - All waters within this waterbody are designated as Coastal.
  - (i) Buzzard Bay - Joint Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 59.6662' N - 75° 41.8400' W; running easterly to a point on the east shore 35° 59.4376' N - 75° 40.5770' W.
- (e) Pamlico Sound - All waters within this waterbody are designated as Coastal.
  - (i) Stumpy Point Bay - All waters within this waterbody are designated as Coastal.
    - (A) All Manmade Tributaries - All manmade tributaries within this waterbody are designated as Joint.
  - (ii) Long Shoal River - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 38.7661' N - 75° 53.4429' W; running easterly to a point on the east shore 35° 38.7641' N - 75° 53.4159' W.
    - (A) All Manmade Tributaries - All manmade tributaries within this waterbody are designated as Joint.
    - (B) Pains Bay - All waters within this waterbody are designated as Coastal.
      - (I) Pains Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 36.4464' N - 75° 49.0420' W; running easterly to a point on the east shore 35° 36.4439' N - 75° 49.0324' W.
      - (C) Deep Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 37.8971' N - 75° 51.3125' W; running easterly to a point on the east shore 35° 37.8840' N - 75° 51.2928' W.
- (f) Currituck Sound - Joint Waters north and Coastal Waters south of a line beginning at a point on the west shore 36° 04.8195' N - 75° 47.4101' W; running easterly to a point on the east shore 36° 05.5739' N - 75° 44.5729' W.
  - (i) All Manmade Tributaries - All manmade tributaries within this waterbody are designated as Joint.
  - (ii) Martin Point Creek (Jean Guite Creek) - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 36° 07.6716' N - 75° 44.9656' W; running easterly to a point on the east shore 36° 07.7568' N - 75° 44.6823' W.
- (12) Gates County:
  - (a) Chowan River - All waters within this waterbody are designated as Joint.
    - (i) Catherine (Warwick) Creek - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the west shore 36° 18.1011' N - 76° 41.1286' W; running southeasterly to a point on the east shore 36° 17.9413' N - 76° 40.8627' W.
    - (ii) Bennetts Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 18.3499' N - 76° 42.0286' W; running northeasterly to a point on the east shore 36° 18.4057' N - 76° 41.6986' W.

- (iii) Beef Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore  $36^{\circ} 20.3235' N - 76^{\circ} 44.6401' W$ ; running easterly to a point on the east shore  $36^{\circ} 20.3070' N - 76^{\circ} 44.5797' W$ .
  - (iv) Sarem Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore  $36^{\circ} 21.7259' N - 76^{\circ} 46.4085' W$ ; running southerly to a point on the south shore  $36^{\circ} 21.6748' N - 76^{\circ} 46.4392' W$ .
  - (v) Shingle (Island) Creek:
    - (A) Westernmost entrance: Inland Waters north and Joint Waters south of a line beginning at a point on the north shore  $36^{\circ} 21.8449' N - 76^{\circ} 48.0940' W$ ; running southeasterly to a point on the south shore  $36^{\circ} 21.7831' N - 76^{\circ} 48.0427' W$ ; and
    - (B) Easternmost entrance: Inland Waters north and Joint Waters south of a line beginning at a point on the west shore  $36^{\circ} 21.8469' N - 76^{\circ} 47.2668' W$ ; running northeasterly to a point on the east shore  $36^{\circ} 21.9062' N - 76^{\circ} 47.1862' W$ .
  - (vi) Barnes Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the western shore  $36^{\circ} 21.8820' N - 76^{\circ} 48.6419' W$ ; running easterly to a point on the east shore  $36^{\circ} 21.8978' N - 76^{\circ} 48.5902' W$ .
  - (vii) Spikes Creek - Inland Waters northwest and Joint Waters southeast of a line beginning at a point on the west shore  $36^{\circ} 22.6515' N - 76^{\circ} 50.8882' W$ ; running northeasterly to a point on the east shore  $36^{\circ} 22.6684' N - 76^{\circ} 50.8493' W$ .
  - (viii) Buckhorn Creek (Run Off Swamp) - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore  $36^{\circ} 22.9682' N - 76^{\circ} 51.9172' W$ ; running easterly to a point on the east shore  $36^{\circ} 22.9614' N - 76^{\circ} 51.8870' W$ .
  - (ix) Mud Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore  $36^{\circ} 23.5134' N - 76^{\circ} 53.9131' W$ ; running easterly to a point on the east shore  $36^{\circ} 23.5132' N - 76^{\circ} 53.8815' W$ .
  - (x) Somerton Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore  $36^{\circ} 31.7177' N - 76^{\circ} 54.8327' W$ ; running easterly to a point on the east shore  $36^{\circ} 31.7143' N - 76^{\circ} 54.7810' W$ .
- (13) Halifax County:
- (a) Roanoke River - Inland Waters northwest and Joint Waters southeast of a line beginning at a point on the west shore  $36^{\circ} 12.5264' N - 77^{\circ} 23.0223' W$ ; running northeasterly along the south side of the Highway 258 Bridge to a point on the east shore  $36^{\circ} 12.5674' N - 77^{\circ} 22.9724' W$ .
  - (i) Kehukee Swamp - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore  $36^{\circ} 05.1942' N - 77^{\circ} 18.9596' W$ ; running southwesterly to a point on the south shore  $36^{\circ} 05.1670' N - 77^{\circ} 18.9761' W$ .
  - (ii) Clarks Canal - Inland Waters north and Joint Waters south of a line of a line beginning at a point on the west shore  $36^{\circ} 04.6165' N - 77^{\circ} 19.5817' W$ ; running easterly to a point on the east shore  $36^{\circ} 04.6215' N - 77^{\circ} 19.5643' W$ .
- (14) Hertford County:
- (a) Chowan River - All waters within this waterbody are designated as Joint.
    - (i) Keel (Currituck) Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore  $36^{\circ} 14.1245' N - 76^{\circ} 44.1961' W$ ; running easterly to a point on the east shore  $36^{\circ} 14.0899' N - 76^{\circ} 43.8533' W$ .
    - (ii) Swain Mill (Taylor Pond) Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore  $36^{\circ} 18.5808' N - 76^{\circ} 43.4729' W$ ; running southerly to a point on the south shore  $36^{\circ} 18.5616' N - 76^{\circ} 43.4706' W$ .
    - (iii) Goose Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore  $36^{\circ} 19.5838' N - 76^{\circ} 44.5971' W$ ; running southerly to a point on the south shore  $36^{\circ} 19.5375' N - 76^{\circ} 44.5925' W$ .
    - (iv) Wiccacon River - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore  $36^{\circ} 20.5439' N - 76^{\circ} 45.4550' W$ ; running southeasterly to a point on the south shore  $36^{\circ} 20.4684' N - 76^{\circ} 45.3392' W$ .
    - (v) Hodges Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore  $36^{\circ} 21.2459' N - 76^{\circ} 46.3421' W$ ; running southerly to a point on the south shore  $36^{\circ} 21.1823' N - 76^{\circ} 46.3243' W$ .
    - (vi) Catherine Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore  $36^{\circ} 22.9579' N - 76^{\circ} 53.1994' W$ ; running southeasterly to a point on the east shore  $36^{\circ} 22.9456' N - 76^{\circ} 53.1742' W$ .

- (vii) Harris (Hares) Mill Creek - All waters within this waterbody are designated as Inland.
- (viii) Meherrin River - All waters within this waterbody are designated as Joint.
  - (A) Potecasi Creek - Inland Waters southwest and Joint Waters northeast of a line beginning at a point on the west shore 36° 26.1234' N - 76° 57.5262' W; running southeasterly to a point on the east shore 36° 26.1005' N - 76° 57.4960' W.
  - (B) Liverman Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 26.7244' N - 76° 58.2797' W; running easterly to a point on the east shore 36° 26.7086' N - 76° 58.2499' W.
  - (C) Vaughan's Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 28.3541' N - 77° 05.6259' W; running southerly to a point on the south shore 36° 28.3307' N - 77° 05.6369' W.
  - (D) Banks Creek - All waters within this waterbody are designated as Inland.
- (ix) Buckhorn Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 31.9519' N - 76° 55.2580' W; running easterly to a point on the east shore 36° 31.9628' N - 76° 55.2429' W.
- (15) Hyde County:
  - (a) Pamlico Sound - All waters within this waterbody are designated as Coastal.
    - (i) Pungo River - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 34.2702' N - 76° 30.1354' W; running northeasterly to a point on the east shore 35° 34.3192' N - 76° 30.0238' W. Joint Waters east and Coastal Waters west of a line beginning at a point on the north shore 35° 32.0974' N - 76° 29.6067' W; running southerly to a point on the south shore 35° 30.2620' N - 76° 29.3843' W.
      - (A) Rutman Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 33.1874' N - 76° 27.4090' W; running easterly to a point 35° 33.1759' N - 76° 27.2525' W; running northeasterly to a point on the east shore 35° 33.2455' N - 76° 26.9119' W.
      - (B) Wilkerson Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 35° 33.1251' N - 76° 27.2328' W; running northerly to a point 35° 33.1553' N - 76° 27.2447' W; running easterly to a point on the east shore 35° 33.3286' N - 76° 26.2019' W.
      - (C) Intracoastal Waterway From Wilkerson Creek To Alligator River At Winn Bay - All waters within this part of the Intracoastal Waterway are designated as Joint.
      - (D) Horse Island Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 32.1965' N - 76° 28.0462' W; running southerly to a point on the south shore 35° 32.1480' N - 76° 28.0705' W.
      - (E) Tarklin Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 31.1553' N - 76° 28.1478' W; running southeasterly to a point on the south shore 35° 31.0974' N - 76° 28.0984' W.
      - (F) Scranton Creek - Inland Waters east and Joint Waters west of line beginning at a point on the north shore 35° 30.0080' N - 76° 26.7759' W; running southerly to a point on the south shore 35° 29.9574' N - 76° 26.7750' W.
      - (G) Smith Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 30.2812' N - 76° 29.7546' W; running southeasterly to a point on the east shore 35° 30.1904' N - 76° 29.4657' W.
      - (H) Fishing Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the west shore 35° 30.2400' N - 76° 35.0143' W; running southeasterly to a point on the east shore 35° 30.0645' N - 76° 34.8211' W.
      - (I) Slades Creek - All waters within this waterbody are designated as Coastal.
      - (J) Fortescue Creek - All waters within this waterbody are designated as Coastal.
    - (ii) Rose Bay - All waters within this waterbody are designated as Coastal.
      - (A) Rose Bay Creek - All waters within this waterbody are designated as Coastal.
      - (B) Rose Bay Canal - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 28.5607' N - 76° 19.6545' W;

- running southerly to a point on the south shore 35° 28.5509' N - 76° 19.6572' W. Joint Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 27.8491' W - 76° 24.2198' W; running easterly to a point on the east shore 35° 27.8404' N - 76° 24.2065' W.
- (iii) Swan Quarter Bay - All waters within this waterbody are designated as Coastal.
- (A) Oyster Creek - All waters within this waterbody are designated as Coastal.
- (iv) Juniper Bay - All waters within this waterbody are designated as Coastal.
- (A) Juniper Bay Creek - Joint Waters east and Coastal Waters west of a line beginning at a point on the north shore 35° 23.2472' N - 76° 14.8754' W; running southwestwardly to a point on the south shore 35° 23.1738' N - 76° 14.9794' W.
- (B) Juniper Bay Creek Canal - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 23.8618' N - 76° 13.1044' W; running easterly to a point on the east shore 35° 23.8677' N - 76° 13.0888' W.
- (v) Lake Mattamuskeet - All waters within this waterbody are designated as Inland.
- (A) Outfall Canal - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 26.6017' N - 76° 10.1715' W; running easterly to a point on the east shore 35° 26.6093' N - 76° 10.1513' W. Joint Waters north and Coastal waters south of a line beginning at a point on the west shore 35° 21.4945' N - 76° 06.5336' W; running northeasterly to a point on the east shore 35° 21.5480' N - 76° 06.4819' W.
- (B) Lake Landing Canal - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 28.7878' N - 76° 04.5867' W; running easterly to a point on the east shore 35° 28.7910' N - 76° 04.5726' W. Joint Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 25.9529' N - 76° 03.6785' W; running easterly to a point on the east shore 35° 25.9568' N - 76° 03.6566' W. Joint Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 25.9666' N - 76° 03.5856' W; running easterly to a point on the east shore 35° 25.9819' N - 76° 03.5600' W.
- (C) Waupopin Canal - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 31.8413' N - 76° 01.7779' W; running southerly to a point on the south shore 35° 31.8283' N - 76° 01.7637' W. Joint Waters west and Coastal Waters east of a line beginning at a point on the west shore 35° 31.5557' N - 75° 58.8725' W; running easterly to a point on the east shore 35° 31.5648' N - 75° 58.8555' W.
- (D) Rattlesnake Canal - Joint Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 26.6965' N - 76° 00.8079' W; running easterly to a point on the east shore 35° 26.7116' N - 76° 00.7749' W.
- (E) All Other Manmade Tributaries To Lake Mattamuskeet - All other manmade tributaries within this waterbody are designated as Inland.
- (vi) Middletown Creek - All waters within this waterbody are designated as Coastal.
- (vii) Long Shoal River - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 38.7661' N - 75° 53.4429' W; running easterly to a point on the east shore 35° 38.7641' N - 75° 53.4159' W.
- (A) All Manmade Tributaries - All manmade tributaries within this waterbody are designated as Joint.
- (B) Broad Creek - All waters within this waterbody are designated as Coastal.
- (C) Flag Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the west shore 35° 37.3782' N - 75° 53.0699' W; running easterly to a point on the east shore 35° 37.3894' N - 75° 53.0593' W.
- (D) Cumberland Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 38.3026' N - 75° 53.3010' W; running southerly to a point on the south shore 35° 38.2692' N - 75° 53.3038' W.
- (b) Alligator River - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore at Cherry Ridge Landing 35° 42.2172' N - 76° 08.4686' W; running southerly to a point on the south shore 35° 42.1327' N - 76° 08.5002' W.
- (i) Swan Creek and Lake - All waters within this waterbody are designated as Inland.
- (16) Jones County:

- (a) White Oak River - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 34° 48.1466' N - 77° 11.4711' W; running easterly to a point on the east shore 34° 48.1620' N - 77° 11.4244' W.
  - (i) Grants Creek - All waters within this waterbody are designated as Inland.
  - (ii) Hunters Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the northwest shore 34° 47.1205' N - 77° 09.9462' W; running southeasterly to a point on the southeast shore 34° 47.0947' N - 77° 09.9160' W.
- (17) Martin County:
  - (a) Roanoke River - All waters within this waterbody are designated as Joint.
    - (i) Prices Gut - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 57.3701' N - 77° 11.9815' W; running southerly to a point on the south shore 35° 57.3552' N - 77° 11.9796' W.
    - (ii) Rainbow Gut - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 35° 55.9334' N - 77° 11.3246' W; running easterly to a point on the east shore 35° 55.9275' N - 77° 11.3136' W.
    - (iii) Conoho Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 52.5439' N - 77° 02.6673' W; running easterly to a point on the east shore 35° 52.5407' N - 77° 02.6280' W.
    - (iv) Sweetwater Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the west shore 35° 51.6464' N - 77° 00.5090' W; running southeasterly to a point on the east shore 35° 51.6252' N - 77° 00.4879' W.
      - (A) Peter Swamp - All waters within this waterbody are designated as Inland.
    - (v) Devils Gut - All waters within this waterbody are designated as Joint.
      - (A) Upper Deadwater Creek - All waters within this waterbody are designated as Joint.
      - (B) Lower Deadwater Creek - All waters within this waterbody are designated as Joint.
      - (C) Gardner Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 35° 50.1599' N - 76° 56.0211' W; running easterly to a point on the east shore 35° 50.1633' N - 76° 55.9899' W.
    - (vi) Roses Creek - Inland Waters southeast and Joint Waters northwest of a line beginning at a point on the north shore 35° 50.1683' N - 76° 50.9664' W; running southwesterly to a point on the south shore 35° 50.1363' N - 76° 56.9907' W.
    - (vii) Welch Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the western shore 35° 51.8458' N - 76° 45.8381' W; running easterly along the shoreline and across the mouths of the three creek entrances to a point on the east shore 35° 51.8840' N - 76° 45.6207' W.
  - (18) New Hanover County:
    - (a) Cape Fear River - Joint Waters north and Coastal Waters south of a line beginning at a point on the western side 34° 13.6953' N - 77° 57.2396' W; running southeasterly along the southern side of US 17-74-76 bridge to a point on the eastern side 34° 13.6214' N - 77° 57.0341' W.
      - (i) Lords Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 05.1562' N - 77° 55.3816' W; running southerly to a point on the south shore 34° 05.1303' N - 77° 55.4008' W.
      - (ii) Todds Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 07.4791' N - 77° 55.5175' W; running southeasterly to a point on the south shore 34° 07.4578' N - 77° 55.5116' W.
      - (iii) Barnards Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 09.4347' N - 77° 56.5969' W; running southerly to a point on the south shore 34° 09.3887' N - 77° 56.5791' W.
      - (iv) Greenfield Lake Outlet - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 12.7210' N - 77° 57.2058' W; running southerly to a point on the south shore 34° 12.7075' N - 77° 57.2085' W.
      - (v) Tommer Creek:
        - (A) Southernmost entrance: Inland Waters northwest and Joint Waters southwest of a line beginning at a point on the west shore 34° 15.6397' N - 77° 58.9608' W; running northeasterly to a point on the east shore 34° 15.6589' N - 77° 58.9338' W; and
        - (B) Northernmost entrance: Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 34° 16.6630' N - 77° 59.4699' W;

- running northeasterly to a point on the east shore 34° 16.6767' N - 77° 59.4506' W.
- (vi) Catfish Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 34° 16.7546' N - 77° 59.3751' W ; running southeasterly to a point on the south shore 34° 16.7118' N - 77° 59.3870' W.
  - (vii) Northeast Cape Fear River - Inland Waters north and Joint Waters south of a line beginning at a point on the west side 34° 26.5658' N - 77° 50.0871' W; running northeasterly along the southern side of NC 210 bridge to a point on the east side 34° 26.6065' N - 77° 49.9955' W.
    - (A) Smiths Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 34° 16.0366' N - 77° 56.8405' W; running southeasterly to a point on the south shore 34° 15.9919' N - 77° 56.7961' W.
    - (B) Ness Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 34° 17.1741' N - 77° 57.2460' W; running southeasterly to a point on the south shore 34° 17.1494' N - 77° 57.2044' W.
    - (C) Dock Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 34° 18.1274' N - 77° 57.3847' W; running southwesterly to a point on the south shore 34° 18.1173' N - 77° 57.3678' W.
    - (D) Fishing Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 34° 19.1613' N - 77° 57.2460' W; running southwesterly to a point on the south shore 34° 19.1331' N - 77° 57.2245' W.
    - (E) Prince George Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 34° 21.8481' N - 77° 57.0066' W; running northeasterly to a point on the east shore 34° 21.8778' N - 77° 57.9755' W.
    - (F) Sturgeon Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 34° 22.6796' N - 77° 51.6018' W; running northeasterly to a point on the east shore 34° 22.6931' N - 77° 51.5776' W.
    - (G) Island Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the south shore 34° 23.2509' N - 77° 47.3377' W ; running northeasterly to a point on the north shore 34° 23.3322' N - 77° 49.3208' W.
- (19) Northampton County:
- (a) Roanoke River - Inland Waters northwest and Joint Waters southeast of a line beginning at a point on the west shore 36° 12.5264' N - 77° 23.0223' W; running northeasterly along the south side of the Highway 258 Bridge to a point on the east shore 36° 12.5674' N - 77° 22.9724' W.
    - (i) Sandy Run (Norfleet Gut) - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 10.1119' N - 77° 17.5396' W; running northeasterly to a point on the east shore 36° 10.1172' N - 77° 17.5316' W.
  - (b) Meherrin River - All waters within this waterbody up to the Virginia state line are designated as Joint.
    - (i) Vaughan's Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 28.3541' N - 77° 05.6259' W; running southerly to a point on the south shore 36° 28.3307' N - 77° 05.6369' W.
- (20) Onslow County:
- (a) Beasleys Creek (Barlow Creek) - All waters within this waterbody are designated as Coastal.
  - (b) Kings Creek - All waters within this waterbody are designated as Coastal.
  - (c) Turkey Creek - All waters within this waterbody are designated as Coastal.
  - (d) Mill Creek - All waters within this waterbody are designated as Coastal.
  - (e) New River - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 34° 45.1654' N - 77° 26.1222' W; running easterly along the southern side of the US Hwy 17 bridge to a point on the east shore 34° 45.2007' N - 77° 25.9790' W.
    - (i) Wheeler Creek - All waters within this waterbody are designated as Coastal.
    - (ii) Everett Creek - All waters within this waterbody are designated as Coastal.
    - (iii) Stones Creek - All waters within this waterbody are designated as Coastal.
    - (iv) Muddy Creek - All waters within this waterbody are designated as Coastal.
    - (v) Mill Creek - All waters within this waterbody are designated as Coastal.
    - (vi) Lewis Creek - All waters within this waterbody are designated as Coastal.

- (vii) Southwest Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 34° 40.8723' N - 77° 26.2399' W; running northeasterly to a point on the east shore 34° 40.9112' N - 77° 26.1758' W.
- (viii) Brinson Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 44.0945' N - 77° 26.4335' W; running southerly to a point on the south shore 34° 44.0654' N - 77° 26.4239' W.
- (ix) Northeast Creek - Inland Waters northeast and Coastal Waters southwest of a line beginning at a point on the west shore 34° 44.0778' N - 77° 21.2640' W; running southeasterly along the southern side of the railroad bridge to a point on the east shore 34° 44.0446' N - 77° 21.2126' W.
- (x) Wallace Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 40.9604' N - 77° 21.5698' W; running southwesterly along the western side of the first bridge upstream from the mouth, to a point on the south shore 34° 40.8576' N - 77° 21.4787' W.
- (xi) Codels Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 38.8845' N - 77° 20.4533' W; running southerly to a point on the south shore 34° 38.8691' N - 77° 20.4515' W.
- (xii) French Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 38.4059' N - 77° 20.2619' W; running southerly to a point on the south shore 34° 38.2566' N - 77° 20.3233' W.
- (xiii) Duck Creek - Inland Waters southwest and Coastal Waters northeast of a line beginning at a point on the north shore 34° 38.0179' N - 77° 20.5169' W; running southwesterly to a point on the south shore 34° 37.9172' N - 77° 20.6520' W.
- (f) Freeman (Browns) Creek - All waters within this waterbody are designated as Coastal.
- (g) Bear Creek - All waters within this waterbody are designated as Coastal.
- (h) Queens Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 42.5696' N - 77° 11.8550' W; running southerly to a point on the south shore 34° 42.4238' N - 77° 11.8550' W.
- (i) Parrotts Swamp - All waters within this waterbody are designated as Coastal.
- (i) White Oak River - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 34° 48.1466' N - 77° 11.4711' W; running northeasterly to a point on the east shore 34° 48.1620' N - 77° 11.4244' W.
- (i) Stevens Creek - All waters within this waterbody are designated as Coastal.
- (ii) Holland Mill (Mill Pond) Creek - All waters within this waterbody are designated as Coastal.
- (iii) Webbs Creek - Inland Waters northwest and Coastal Waters southeast of a line beginning at a point on the north shore 34° 45.7559' N - 77° 10.1321' W; running southwesterly to a point on the south shore 34° 45.7404' N - 77° 10.1486' W.
- (iv) Freemans Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 46.9791' N - 77° 10.3935' W; running southerly to a point on the south shore 34° 46.9663' N - 77° 10.3999' W.
- (v) Calebs Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 48.1354' N - 77° 11.4688' W; running southeasterly to a point on the south shore 34° 48.1192' N - 77° 11.4546' W.
- (vi) Grants Creek - All waters within this waterbody are designated as Inland.
- (21) Pamlico County:
  - (a) Pamlico River - All waters within this waterbody are designated as Coastal.
    - (i) Lower Goose Creek - All waters within this waterbody are designated as Coastal.
      - (A) Dixons Creek - All waters within this waterbody are designated as Coastal.
      - (B) Patons Creek - All waters within this waterbody are designated as Coastal.
      - (C) Wilson Creek - All waters within this waterbody are designated as Coastal.
      - (D) Eastham Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 35° 17.8205' N - 76° 35.1828' W; running southerly to a point on the south shore 35° 17.6797' N - 76° 35.1840' W.
      - (E) Upper Spring Creek - All waters within this waterbody are designated as Coastal.
      - (F) Intracoastal Waterway from Upper Spring Creek To Gale Creek - All waters within this waterbody are designated as Coastal.

- (G) Hunting Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 16.7523' N - 76° 36.8138' W; running easterly to a point on the east shore 35° 16.6779' N - 76° 36.5885' W.
- (ii) Oyster Creek - All waters within this waterbody are designated as Coastal.
- (iii) Clark Creek - All waters within this waterbody are designated as Coastal.
  - (A) Middle Prong - All waters within this waterbody are designated as Coastal.
  - (B) James Creek - All waters within this waterbody are designated as Coastal.
- (b) Pamlico Sound - All waters within this waterbody are designated as Coastal.
  - (i) Porpoise Creek - All waters within this waterbody are designated as Coastal.
  - (ii) Drum Creek - All waters within this waterbody are designated as Coastal.
  - (iii) Bay River - Inland Waters south and Coastal Waters north of a line beginning at a point on the north shore 35° 08.4601' N - 76° 45.9173' W; running southeasterly to a point on the south shore 35° 08.4436' N - 76° 45.8885' W.
    - (A) Gale Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 13.3142' N - 76° 36.7089' W; running southwesterly to a point on the south shore 35° 13.2964' N - 76° 36.7222' W.
    - (B) Chadwick Creek - All waters within this waterbody are designated as Coastal.
    - (C) Bear Creek - All waters within this waterbody are designated as Coastal.
    - (D) Vandemere Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 12.0330' N - 76° 40.7460' W; running northeasterly to a point on the east shore 35° 12.0433' N - 76° 40.7235' W.
      - (I) Long Creek - All waters within this waterbody are designated as Coastal.
    - (E) Smith Creek - All waters within this waterbody are designated as Coastal.
    - (F) Chapel Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 10.0076' N - 76° 42.4909' W; running easterly to a point on the east shore 35° 10.0096' N - 76° 42.4722' W.
    - (G) Raccoon Creek - All waters within this waterbody are designated as Coastal.
    - (H) Trent Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 06.2738' N - 76° 43.1071' W; running southeasterly to a point on the east shore 35° 06.2603' N - 76° 43.0741' W.
    - (I) Thomas Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 35° 07.2024' N - 76° 43.0929' W; running southerly to a point on the south shore 35° 07.1610' N - 76° 43.0947' W.
  - (iv) Masons Creek - All waters within this waterbody are designated as Coastal.
  - (v) Moore Creek - All waters within this waterbody are designated as Coastal.
  - (vi) Rices Creek - All waters within this waterbody are designated as Coastal.
  - (vii) Ball Creek - All waters within this waterbody are designated as Coastal.
  - (viii) Cabin Creek - All waters within this waterbody are designated as Coastal.
  - (ix) Riggs Creek - All waters within this waterbody are designated as Coastal.
  - (x) Spring Creek - All waters within this waterbody are designated as Coastal.
  - (xi) Long Creek - All waters within this waterbody are designated as Coastal.
  - (c) Neuse River - All waters within this waterbody are designated as Coastal.
    - (i) Swan Creek - All waters within this waterbody are designated as Coastal.
    - (ii) Lower Broad Creek - All waters within this waterbody are designated as Coastal.
      - (A) Greens Creek - All waters within this waterbody are designated as Coastal.
      - (B) Pittman Creek - All waters within this waterbody are designated as Coastal.
      - (C) Burton Creek - All waters within this waterbody are designated as Coastal.
      - (D) Brown Creek - All waters within this waterbody are designated as Coastal.
        - (I) Spice Creek - All waters within this waterbody are designated as Coastal.
      - (E) Gideon Creek - All waters within this waterbody are designated as Coastal.
      - (F) Tar Creek - All waters within this waterbody are designated as Coastal.
      - (G) Parris Creek - All waters within this waterbody are designated as Coastal.
    - (iii) Orchard Creek - All waters within this waterbody are designated as Coastal.
    - (iv) Pierce Creek - All waters within this waterbody are designated as Coastal.
    - (v) Whitaker Creek - All waters within this waterbody are designated as Coastal.

- (vi) Smith Creek - Joint Waters northwest and Coastal Waters southeast of a line beginning at a point on the north shore at the Oriental Bridge 35° 01.5149' N - 76° 41.9549' W; running southwesterly to a point on the south shore 35° 01.3391' N - 76° 42.1774' W.
  - (vii) Greens Creek - All waters within this waterbody are designated as Joint.
    - (A) Kershaw Creek - All waters within this waterbody are designated as Joint.
  - (viii) Dawson Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 00.3371' N - 76° 45.6513' W; running southerly to a point on the south shore 35° 00.1492' N - 76° 45.6202' W.
    - (A) Tarkiln Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 00.4124' N - 76° 45.5392' W; running easterly to a point on the east shore 35° 00.4289' N - 76° 45.4472' W.
  - (ix) Gatlin Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 34° 58.4165' N - 76° 47.4645' W; running easterly to a point on the east shore 34° 58.4154' N - 76° 47.4371' W.
  - (x) Little Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 34° 58.5175' N - 76° 49.5822' W; running southeasterly to a point on the east shore 34° 58.5086' N - 76° 49.5680' W.
  - (xi) Mill Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 34° 59.6024' N - 76° 51.1276' W; running easterly to a point on the east shore 34° 59.5955' N - 76° 51.0864' W.
  - (xii) Beard Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 00.3293' N - 76° 52.1855' W; running easterly to a point on the east shore 35° 00.3055' N - 76° 51.9012' W.
  - (xiii) Lower Duck Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 01.5781' N - 76° 54.1580' W; running easterly to a point on the east shore 35° 01.5566' N - 76° 54.0248' W.
  - (xiv) Goose Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 03.4414' N - 76° 55.1170' W; running easterly to a point on the east shore 35° 03.3567' N - 76° 54.9728' W.
  - (xv) Upper Broad Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 04.5050' N - 76° 56.5269' W; running easterly to a point on the east shore 35° 04.4705' N - 76° 56.2115' W.
- (22) Pasquotank County:
- (a) Albemarle Sound - All waters within this waterbody are designated as Coastal.
    - (i) All Manmade Tributaries - All manmade tributaries within this waterbody are designated as Joint.
    - (ii) Little River - Inland Waters northwest and Joint Waters southeast of a line beginning at a point on the west shore 36° 12.2950' N - 76° 17.1405' W; running northeasterly to a point on the east shore 36° 12.5237' N - 76° 16.9418' W. Joint Waters west and Coastal Waters east of a line beginning at a point on the north shore 36° 07.5322' N - 76° 10.6901' W; running southwesterly to a point on the south shore 36° 06.4199' N - 76° 11.6047' W.
      - (A) Symonds Creek - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the north shore 36° 10.2898' N - 76° 14.1801' W; running southeasterly to a point on the south shore 36° 10.2042' N - 76° 14.0368' W.
    - (iii) Big Flatty Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 09.3267' N - 76° 08.2562' W; running southerly to a point on the south shore 36° 08.9730' N - 76° 08.3175' W. Joint waters north and Coastal Waters south of a line beginning at a point on the west shore 36° 07.9621' N - 76° 07.1818' W; running easterly to a point on the east shore 36° 08.2706' N - 76° 06.2525' W.
    - (iv) Pasquotank River - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 18.0768' N - 76° 13.0979' W; running easterly along the south side of the Highway 158 Bridge to a point on the east shore 36° 18.0594' N - 76° 12.9620' W. Joint Waters west and Coastal Waters east of a line beginning on the north shore 36° 11.4282' N - 76° 01.2876' W; running southwesterly to a point on the south shore 36° 08.7563' N - 76° 03.6991' W.
      - (A) Little Flatty Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 11.5209' N - 76° 04.6517' W;

- running southerly to a point on the south shore 36° 10.9973' N - 76° 04.5149' W.
- (B) New Begun Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 13.3298' N - 76° 08.2878' W; running southerly to a point on the south shore 36° 13.0286' N - 76° 08.1820' W.
- (I) Paling Creek - All waters within this waterbody are designated as Inland.
- (II) James Creek - All waters within this waterbody are designated as Inland.
- (C) Charles Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 36° 17.8090' N - 76° 13.0732' W; running easterly to a point on the east shore 36° 17.8024' N - 76° 13.0407' W.
- (23) Pender County:
- (a) Cape Fear River - All waters within this waterbody are designated as Joint.
- (i) Lyon Thoroughfare (Lyon Thorofare):
- (A) Easternmost entrance: Inland Waters northwest and Joint Waters southeast of a line beginning at a point on the west shore 34° 22.0493' N - 78° 04.4435' W; running northeasterly to a point on the east shore 34° 22.0783' N - 78° 04.4123' W; and
- (B) Westernmost entrance: Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 34° 21.9197' N - 78° 07.0527' W; running southeasterly to a point on the south shore 34° 21.8618' N - 78° 06.9992' W.
- (ii) Black River - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the north shore 34° 22.0783' N - 78° 04.4123' W; running southeasterly to a point on the south shore 34° 21.9950' N - 78° 04.2864' W.
- (iii) Northeast Cape Fear River - Inland Waters north and Joint Waters south of a line beginning at a point on the west side 34° 26.5658' N - 77° 50.0871' W; running northeasterly along the southern side of NC 210 bridge to a point on the east side 34° 26.6065' N - 77° 49.9955' W.
- (A) Cowpen Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 34° 22.1417' N - 77° 59.3357' W; running southerly to a point on the south shore 34° 22.1298' N - 77° 59.3426' W.
- (B) Long Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the west shore 34° 22.7149' N - 77° 58.2797' W; running northeasterly to a point on the east shore 34° 22.7428' N - 77° 58.2348' W.
- (C) Turkey Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 34° 22.8465' N - 77° 57.4827' W; running southerly to a point on the south shore 34° 22.7895' N - 77° 57.4452' W.
- (D) Old Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 34° 22.5249' N - 77° 52.1493' W; running northeasterly to a point on the east shore 34° 22.5327' N - 77° 52.1278' W.
- (E) Honey Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 34° 22.8627' N - 77° 51.0887' W; running easterly to a point on the east shore 34° 22.8609' N - 77° 51.0507' W.
- (F) Harrisons Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 34° 24.1859' N - 77° 48.6570' W; running southwesterly to a point on the south shore 34° 24.1387' N - 77° 48.6982' W.
- (G) Island Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the south shore 34° 23.2509' N - 77° 47.3377' W; running northeasterly to a point on the north shore 34° 23.3322' N - 77° 49.3208' W.
- (b) Topsail Sound And Tributaries - All waters within these waterbodies are designated as Coastal.
- (c) Beasleys (Barlow) Creek - All waters within this waterbody are designated as Coastal.
- (24) Perquimans County:
- (a) Albemarle Sound - All waters within this waterbody are designated as Coastal.
- (i) All Manmade Tributaries - All manmade tributaries within this waterbody are designated as Joint.

- (ii) Yeopim River - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore  $36^{\circ} 05.4526' N - 76^{\circ} 27.7651' W$ ; running southerly to a point on the south shore at Norcum Point  $36^{\circ} 05.1029' N - 76^{\circ} 27.7120' W$ . Joint Waters west and Coastal Waters east of a line beginning at a point on the north shore  $36^{\circ} 04.7426' N - 76^{\circ} 24.2536' W$ ; running southwesterly to a point on the south shore  $36^{\circ} 04.1136' N - 76^{\circ} 24.5365' W$ .
    - (A) Yeopim Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore of  $36^{\circ} 04.7206' N - 76^{\circ} 24.8396' W$ ; running easterly to a point on the east shore  $36^{\circ} 04.7426' N - 76^{\circ} 24.2536' W$ .
  - (iii) Perquimans River - Joint Waters west and Coastal Waters east of a line beginning at a point on the west shore  $36^{\circ} 05.9669' N - 76^{\circ} 18.1791' W$ ; running northeasterly to a point on the east shore  $36^{\circ} 06.7655' N - 76^{\circ} 16.5953' W$ . Inland Waters southwest and Joint Waters northeast of a line beginning at a point on the west shore  $36^{\circ} 11.6569' N - 76^{\circ} 28.0055' W$ ; running southeasterly to a point on the east shore  $36^{\circ} 11.6123' N - 76^{\circ} 27.9382' W$ .
    - (A) Walter's Creek - Inland Waters southwest and Joint Waters northeast of a line beginning at a point on the north shore  $36^{\circ} 11.1305' N - 76^{\circ} 27.9185' W$ ; running southeasterly to a point on the south shore  $36^{\circ} 11.0224' N - 76^{\circ} 27.6626' W$ .
    - (B) Mill Pond Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore  $36^{\circ} 11.9757' N - 76^{\circ} 27.5752' W$ ; running easterly to a point on the east shore  $36^{\circ} 11.9766' N - 76^{\circ} 27.2511' W$ .
    - (C) Suttons Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore  $36^{\circ} 10.0394' N - 76^{\circ} 23.7945' W$ ; running southeasterly to a point on the east shore  $36^{\circ} 09.9325' N - 76^{\circ} 23.5263' W$ .
    - (D) Jackson (Cove) Creek - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the north shore  $36^{\circ} 08.4642' N - 76^{\circ} 20.3324' W$ ; running southeasterly to a point on the east shore  $36^{\circ} 08.4159' N - 76^{\circ} 20.2890' W$ .
    - (E) Muddy Creek - Inland Waters northwest and Joint Waters southwest of a line beginning at a point on the north shore  $36^{\circ} 07.0381' N - 76^{\circ} 17.1350' W$ ; running southeasterly to a point on the east shore  $36^{\circ} 07.0218' N - 76^{\circ} 17.1226' W$ .
  - (iv) Little River - Inland Waters northwest and Joint Waters southeast of a line beginning at a point on the west shore  $36^{\circ} 12.2950' N - 76^{\circ} 17.1405' W$ ; running northeasterly to a point on the east shore  $36^{\circ} 12.5237' N - 76^{\circ} 16.9418' W$ . Joint Waters west and Coastal Waters east of a line beginning at a point on the north shore  $36^{\circ} 07.5322' N - 76^{\circ} 10.6901' W$ ; running southwesterly to a point on the south shore  $36^{\circ} 06.4199' N - 76^{\circ} 11.6047' W$ .
    - (A) Deep Creek - Inland Waters southwest and Joint Waters northeast of a line beginning at a point on the north shore  $36^{\circ} 11.0945' N - 76^{\circ} 16.6717' W$ ; running southeasterly to a point on the south shore  $36^{\circ} 10.7510' N - 76^{\circ} 16.2258' W$ .
    - (B) Davis Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore  $36^{\circ} 12.2950' N - 76^{\circ} 17.1405' W$ ; running southerly to a point on the south shore  $36^{\circ} 12.2222' N - 76^{\circ} 17.1153' W$ .
- (25) Tyrrell County:
- (a) Albemarle Sound - All waters within this waterbody are designated as Coastal.
    - (i) All Manmade Tributaries - All manmade tributaries within this waterbody are designated as Joint.
    - (ii) Banton (Maybell) Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore  $35^{\circ} 56.0552' N - 76^{\circ} 22.0664' W$ ; running northeasterly to a point on the east shore  $35^{\circ} 56.1151' N - 76^{\circ} 21.8760' W$ .
    - (iii) Scuppernong River - Coastal Waters northwest and Joint Waters southeast of a line beginning at a point on the northeast shore  $35^{\circ} 56.7196' N - 76^{\circ} 18.8964' W$ ; running southwesterly to a point on the southwest shore at  $35^{\circ} 56.3351' N - 76^{\circ} 19.6609' W$ . Inland Waters south and Joint Waters north of a line beginning at a point on the west shore  $35^{\circ} 54.0158' N - 76^{\circ} 15.4605' W$ ; running easterly to a point on the east shore  $35^{\circ} 54.0406' N - 76^{\circ} 15.3007' W$ .

- (A) First Creek (Rider's Creek) - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 35° 54.0495' N - 76° 15.2842' W; running northeasterly to a point on the east shore 35° 54.0641' N - 76° 15.2554' W.
- (B) Furlough Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 55.6391' N - 76° 18.9797' W; running southwesterly to a point on the south shore 35° 55.6322' N - 76° 18.9907' W.
- (iv) Alligator River - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore at Cherry Ridge Landing 35° 42.2172' N - 76° 08.4686' W; running southerly to a point on the south shore 35° 42.1327' N - 76° 08.5002' W. Coastal Waters north and Joint Waters south of a line running along the north side of the Highway 64 Bridge beginning at a point on the west shore 35° 54.2903' N - 76° 01.6818' W; running easterly to a point on the east shore 35° 53.6835' N - 75° 58.8578' W.
  - (A) Little Alligator River - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 56.7640' N - 76° 01.0299' W; running southerly to a point on the south shore 35° 55.9362' N - 76° 01.2492' W.
  - (B) Second Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 51.7616' N - 76° 03.5105' W; running southerly to a point on the south shore 35° 51.1317' N - 76° 03.8003' W.
  - (C) Goose Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 50.2658' N - 76° 03.9115' W; running southerly to a point on the south shore 35° 50.2123' N - 76° 03.9120' W.
  - (D) The Frying Pan - All waters within this waterbody are designated as Joint.
  - (E) Gum Neck Landing Ditch - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the west shore 35° 41.6054' N - 76° 06.8215' W; running southeasterly to a point on the east shore 35° 41.5841' N - 76° 06.7991' W.
- (26) Washington County:
  - (a) Albemarle Sound - All waters within this waterbody are designated as Coastal.
    - (i) All Manmade Tributaries - All manmade tributaries within this waterbody are designated as Joint.
    - (ii) Mackeys (Kendrick) Creek - Inland Waters southeast and Coastal Waters northwest of a line beginning at a point on the north shore 35° 56.3806' N - 76° 36.4356' W; running southwesterly to a point on the south shore 35° 56.3122' N - 76° 36.4613' W.
    - (iii) Pleasant Grove Creek (Cherry Swamp) - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 56.4791' N - 76° 34.1624' W; running easterly to a point on the east shore 35° 56.5042' N - 76° 34.0319' W.
    - (iv) Chapel Swamp Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 56.4150' N - 76° 33.3494' W; running easterly to a point on the east shore 35° 56.4122' N - 76° 33.3091' W.
    - (v) Bull Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 56.9954' N - 76° 23.0291' W; running southerly to a point on the south shore 35° 56.9602' N - 76° 23.0282' W.
    - (vi) Deep Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 56.1291' N - 76° 23.1179' W; running southerly to a point on the south shore 35° 56.0744' N - 76° 23.1230' W.
    - (vii) Banton (Maybell) Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 56.0552' N - 76° 22.0664' W; running northeasterly to a point on the east shore 35° 56.1151' N - 76° 21.8760' W.
  - (b) Roanoke River - Joint Waters south and Coastal Waters north of a line beginning at a point on the west shore of the Roanoke River 35° 56.5068' N - 76° 41.8858' W; running easterly to a point on the east shore 35° 56.5324' N - 76° 41.5896' W.
    - (i) Conaby Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 35° 55.3779' N - 76° 42.4401' W; running easterly to a point on the east shore 35° 55.3752' N - 76° 42.3408' W.
    - (ii) Welch Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the western shore 35° 51.8458' N - 76° 45.8381' W; running easterly along

the shoreline and across the mouths of the three creek entrances to a point on the east shore 35° 51.8840' N - 76° 45.6207' W.

- (c) Scuppernong River - All waters within this waterbody are designated as Inland.

*History Note:* Authority G.S. 113-132; 113-134; 143B-289.52;  
Eff. February 1, 1991;  
Amended Eff. May 1, 2015; June 1, 2013; April 1, 2009; August 1, 2004; July 1, 1993; September 1, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

## SUBCHAPTER 03R – DESCRIPTIVE BOUNDARIES

### SECTION .0100 – DESCRIPTIVE BOUNDARIES

#### 15A NCAC 03R .0101 SEA TURTLE SANCTUARY

The sea turtle sanctuary referenced in 15A NCAC 03I .0107 is in the Atlantic Ocean adjacent to Onslow County. It is bounded by a line beginning near the easternmost end of Hammocks Beach (Bear Island) at a point 34° 38.3990' N - 77° 07.2962' W; running southeasterly to a point near the Bogue Inlet Bell Buoy 34° 38.3063' N - 77° 07.0738' W; running southwesterly 1,000 feet offshore parallel with the ocean shoreline of Bear Island to a point 34° 37.1000' N - 77° 10.1000' W; running southerly to a point 34° 36.7000' N - 77° 09.8000' W, running southwesterly to a point 34° 35.1000' N - 77° 13.2000' W; running northerly to a point off the mouth of Brown's Inlet 34° 35.6000' N - 77° 13.6000' W; running southwesterly parallel with the ocean shoreline 1,000 feet offshore to a point 34° 34.7000' N - 77° 15.1000' W; running southeasterly to a point 34° 34.3000' N - 77° 14.7000' W; W, running southwesterly to a point near the New River Inlet Bell Buoy 34° 31.0500' N - 77° 19.8333' W; running northwesterly to a point near the southernmost tip of Onslow Beach 34° 31.9226' N - 77° 20.3045' W; then running northeasterly following the shoreline at mean high water across Brown and Bear inlets on the COLREGS demarcation line (as indicated on National Ocean Service navigation charts for the area) to the point of beginning.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. September 1, 1991;  
Recodified from 15A NCAC 3R .0001 Eff. December 17, 1996;  
Amended Eff. August 1, 2004; May 1, 1997;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### 15A NCAC 03R .0102 MILITARY DANGER ZONES AND RESTRICTED AREAS

The designated military danger zones and restricted areas referenced in 15A NCAC 03I .0110(b) are delineated in the following areas:

- (1) Currituck Sound:
  - (a) In the vicinity of North Landing River, the waters within a circular area with a radius of 1,000 yards having its center at a point 36° 31.0000' N - 76° 01.6666' W.
  - (b) In the vicinity of Northern Currituck Sound, southeasterly of a line beginning at a point 36° 28.0826' N - 75° 58.3818' W; running southerly to a point 36° 26.0657' N - 75° 57.0005' W; running easterly to a point 36° 26.0831' N - 75° 55.4026' W; northerly to a point 36° 28.1984' N - 75° 54.7119' W; westerly to the point of beginning 36° 28.0826' N - 75° 58.3818' W.
- (2) Albemarle Sound:
  - (a) In the vicinity of Harvey Point, southwest of a line beginning at a point on shore at Harvey Neck 36° 05.3354' N - 76° 20.3059' W; running southeasterly to a point 36° 03.4999' N - 76° 21.7333' W; running southeasterly to a point 36° 02.2999' N - 76° 19.5000' W; running easterly to a point 36° 03.0999' N - 76° 16.7166' W; running northerly to a point 36° 04.8744' N - 76° 17.5538' W; running northerly to a point onshore at Harvey Neck 36° 05.9802' N - 76° 18.1612' W.
  - (b) Along south shore of Albemarle Sound, southeast of a line beginning at a point 36° 00.7166' N - 76° 19.3333' W; running southerly to a point 35° 59.5833' N - 76° 19.3333' W; running easterly to a point 36° 00.1999' N - 76° 04.4333' W; running northerly to a point 36° 02.6666' N - 76° 04.4333' W; running westerly to the point of the beginning 36° 00.7166' N - 76° 19.3333' W.
    - (i) Southeast of a line beginning at a point 36° 00.7166' N - 76° 19.3333' W; running southerly to a point 35° 59.5833' N - 76° 19.3333' W; running easterly to a point 35°

- 59.7499' N - 76° 14.5000' W; running northerly to point 36° 01.3333' N - 76° 14.5002' W; running westerly to the point of the beginning 36° 00.7166' N - 76° 19.3333' W.
- (ii) Southeast of a line beginning at a point 36° 01.3333' N - 76° 14.5002' W; running southerly to a point 35° 59.7499' N - 76° 14.5000' W; running easterly to a point 36° 00.0833' N - 76° 07.2499' W; running northerly to a point 36° 02.2999' N - 76° 07.2499' W; running westerly to the point of the beginning 36° 01.3333' N - 76° 14.5002' W.
- (iii) Southeast of a line beginning at a point 36° 02.2999' N - 76° 07.2499' W; running southerly to a point 36° 00.0833' N - 76° 07.2499' W; running easterly to a point 36° 00.1999' N - 76° 04.4333' W; running northerly to a point 36° 02.6666' N - 76° 04.4334' W; running westerly to the point of the beginning 36° 02.2999' N - 76° 07.2499' W.
- (3) Pamlico Sound:
- (a) In the vicinity of Long Shoal, the waters within a circular area with a radius of one and one-half nautical miles having its center at a point 35° 32.3000' N - 75° 40.6500' W;
- (b) In the vicinity of Brant Island, the waters within a circular area with a radius of 3.0 statute miles having its center at a point 35° 12.5000' N - 76° 26.5000' W;
- (c) In the vicinity of Piney Island, the waters within a circular area with a radius of:
- (i) 0.5 statute mile having its center at a point 35° 04.2000' N - 76° 28.4000' W;
- (ii) 1.8 statute mile having its center at a point 35° 02.2000' N - 76° 28.0000' W;
- (iii) 0.5 statute mile having its center at a point 35° 01.7000' N - 76° 25.8000' W;
- (iv) 0.5 statute mile having its center at a point 34° 58.8000' N - 76° 26.2000' W.
- (4) In the Neuse River and its tributaries, within 500 feet from of the shore along the reservation of the Marine Corps Air Station, Cherry Point, North Carolina, beginning on the reservation west of Slocum Creek at a point 34° 57.8766' N - 76° 54.8823' W; running southeasterly, east of Hancock Creek to a point 34° 56.1855' N - 76° 50.6363' W; including all waters of Slocum and Hancock creeks and their tributaries within the boundaries of the reservation.
- (5) Atlantic Ocean:
- (a) In the vicinity east of New River Inlet, beginning at a point on the ocean shoreline of the southwest portion of Onslow Beach 34° 32.5609' N - 77° 18.5578' W; running southwesterly to a point 34° 23.7279' N - 77° 23.5996' W; east and north of an arc of a circle to a point 34° 35.3465' N - 77° 01.2528' W; northwesterly to a point on the ocean shoreline on the southwest shore of Bear Inlet 34° 37.3793' N - 77° 10.2449' W; running southwesterly following the ocean shoreline to the point of the beginning 34° 32.5609' N - 77° 18.5578' W.
- (b) In the vicinity of Bear Inlet, southwest and southeast of a line beginning at a point 34° 37.5333' N - 77° 12.0500' W; running southwesterly to a point 34° 34.8333' N - 77° 15.1666' W; running southerly to a point 34° 28.9166' N - 77° 15.0833' W; running easterly to a point 34° 32.4500' N - 77° 06.5000' W; running northerly to a point 34° 37.7333' N - 77° 10.5833' W; running southwesterly to a point 34° 36.9666' N - 77° 11.4166' W; running to the northwesterly to the point of the beginning 34° 37.5333' N - 77° 12.0500' W.
- (6) Brown's Inlet between Bear Creek and the Onslow Beach Bridge and the Atlantic Ocean:
- (a) In vicinity of Bear Inlet, southwesterly and southeasterly of line beginning at a point on the north shoreline of the IWW near Bear Creek 34° 38.0450' N - 77° 12.2606' W; running southwesterly parallel to the IWW to a point near the northwest side of the Onslow Beach Bridge 34° 34.5445' N - 77° 16.3578' W; running through the Onslow Beach Bridge to a point on the ocean shoreline 34° 34.1240' N - 77° 16.2896' W running northeasterly following the ocean shoreline across Brown's Inlet to a point 34° 37.0903' N - 77° 10.7206' W; running around the shoreline of Bear Inlet to a point 34° 37.2494' N - 77° 10.7206' W; running along the northeast shoreline of Bear Creek to the south shoreline of the IWW to a point 34° 37.9597' N - 77° 12.2038' W; running across the IWW to include all inlets, streams, bays and water therein to the point of the beginning 34° 38.0450' N - 77° 12.2606' W.
- (7) New River within eight sections:
- (a) Trap Bay Sector, in New River, north of a line beginning on the west shore 34° 33.1209' N - 77° 21.7232' W; running easterly to a point 34° 33.2885' N - 77° 21.0809' W; running easterly to a point on the east shore 34° 33.2054' N - 77° 20.4736' W; following the northeast shoreline to include all streams, bays and waters therein to a point 34° 34.1996' N - 77° 21.6639' W; running southwest to a point 34° 33.6955' N - 77° 22.3780' W; following the southwest shoreline to include all streams, bays and water therein to a point of the beginning 34° 33.1209' N - 77° 21.7232' W.

- (b) Courthouse Bay Sector, in New River, north of a line beginning on the southwest shore to a point  $34^{\circ} 33.6955' N - 77^{\circ} 22.3780' W$ ; running to a point on the northeast shore  $34^{\circ} 34.1996' N - 77^{\circ} 21.6639' W$ ; following the northeast shoreline to include all streams, bays and water therein to a point on the northshore near Hwy. 172 Bridge  $34^{\circ} 34.7737' N - 77^{\circ} 23.9604' W$ ; running to a point on the southshore near Hwy. 172 Bridge  $34^{\circ} 34.5917' N - 77^{\circ} 23.9464' W$ ; following the southeast shoreline to include all streams, bays and waters therein to the point of the beginning  $34^{\circ} 33.6955' N - 77^{\circ} 22.3780' W$ .
- (c) Stone Bay Sector, in New River, north of a line beginning on the southwest shore near Hwy. 172 Bridge  $34^{\circ} 34.5917' N - 77^{\circ} 23.9464' W$ ; running to a point on the north shore near Hwy. 172 Bridge  $34^{\circ} 34.7737' N - 77^{\circ} 23.9604' W$ ; following the north shoreline to a point  $34^{\circ} 35.7399' N - 77^{\circ} 24.0444' W$ ; running to a point on the Grey Point Sector Line  $34^{\circ} 36.3841' N - 77^{\circ} 25.9488' W$ ; running westerly to a point on the west shore  $34^{\circ} 36.5801' N - 77^{\circ} 26.6910' W$ ; following the west shore to the point of the beginning near Hwy. 172 Bridge  $34^{\circ} 34.5917' N - 77^{\circ} 23.9464' W$ .
- (d) Stone Creek Sector, in New River, southwest of a line beginning on the north shore  $34^{\circ} 37.1122' N - 77^{\circ} 25.9628' W$ ; running southerly to a point on the Grey Point Sector line  $34^{\circ} 36.3841' N - 77^{\circ} 25.9488' W$ ; running westerly to a point on the west shore  $34^{\circ} 36.5801' N - 77^{\circ} 26.6910' W$ ; following the shoreline to include all streams, bays and water therein to the point of beginning  $34^{\circ} 37.1122' N - 77^{\circ} 25.9628' W$ .
- (e) Grey Point Sector, in New River, northeast of a line beginning on the west shore  $34^{\circ} 36.5801' N - 77^{\circ} 26.6910' W$ ; running easterly to a point on the east shore  $34^{\circ} 35.7399' N - 77^{\circ} 24.0444' W$ ; following the easterly shoreline including all streams, bays and water therein to a point  $34^{\circ} 38.2465' N - 77^{\circ} 20.3336' W$ ; running northwest to a point on the west shore  $34^{\circ} 39.1847' N - 77^{\circ} 22.8821' W$ ; following the west shoreline to include all streams, bays and waters therein to a point  $34^{\circ} 37.1122' N - 77^{\circ} 25.9628' W$ ; running southerly to a point on the Grey Point Sector line  $34^{\circ} 36.3841' N - 77^{\circ} 25.9488' W$ .
- (f) Farnell Bay Sector, in New River, north of a line on the west shore  $34^{\circ} 39.1847' N - 77^{\circ} 22.8821' W$ ; running to a point on the east shore  $34^{\circ} 38.2465' N - 77^{\circ} 20.3336' W$ ; in Frenchs Creek, west of a line on the north shore  $34^{\circ} 38.3585' N - 77^{\circ} 19.9695' W$ ; running to a point on the south shore  $34^{\circ} 38.1064' N - 77^{\circ} 19.9415' W$ ; following the east shoreline to a point  $34^{\circ} 40.4730' N - 77^{\circ} 22.7141' W$ ; running northwest to a point on the west shore  $34^{\circ} 40.7530' N - 77^{\circ} 23.9744' W$ ; following the west shoreline to include all streams, bays and waters therein to a point  $34^{\circ} 39.1847' N - 77^{\circ} 22.8821' W$ .
- (g) Morgan Bay Sector, in New River, north of a line on the west shore  $34^{\circ} 40.7530' N - 77^{\circ} 23.9744' W$ ; running to a point on the east shore  $34^{\circ} 40.4730' N - 77^{\circ} 22.7141' W$ ; in Wallace Creek, west of a line  $34^{\circ} 40.9070' N - 77^{\circ} 21.9719' W$ ; running south to a point on the south shore  $34^{\circ} 40.6970' N - 77^{\circ} 21.9579' W$ ; following the east shoreline to a point  $34^{\circ} 42.5526' N - 77^{\circ} 23.6712' W$ ; running south to a point on the west shore  $34^{\circ} 42.0211' N - 77^{\circ} 24.9325' W$ ; following the west shoreline to include all streams, bays and waters therein to a point  $34^{\circ} 40.7530' N - 77^{\circ} 23.9744' W$ .
- (h) Jacksonville Sector in New River, Southwest Creek; northwest of a line beginning at a point  $34^{\circ} 41.0751' N - 77^{\circ} 25.6267' W$ ; to a point on the south shore  $34^{\circ} 40.9581' N - 77^{\circ} 25.6624' W$ ; north of a line beginning at a point on the northeast shoreline of Southwest Creek  $34^{\circ} 42.0211' N - 77^{\circ} 24.9325' W$ ; running northwest to a point on the east shoreline of New River  $34^{\circ} 42.5526' N - 77^{\circ} 23.6712' W$ ; southeast of a line beginning at a point on the west shore of New River  $34^{\circ} 43.7028' N - 77^{\circ} 25.8448' W$ ; running east to a point on the east shore of New River  $34^{\circ} 43.7108' N - 77^{\circ} 25.5275' W$ ; southwest of a line beginning at a point on the north shore of Northeast Creek  $34^{\circ} 43.7108' N - 77^{\circ} 23.4412' W$ ; running southerly to a point on the south shore of Northeast Creek  $34^{\circ} 43.3696' N - 77^{\circ} 23.4333' W$ ;
- (8) Cape Fear River:
- (a) In the vicinity of Sunny Point Army Terminal, beginning at a point onshore west of the main ship channel  $33^{\circ} 58.2950' N - 77^{\circ} 58.1533' W$ ; running easterly to a point near marker #23,  $33^{\circ} 58.2950' N - 77^{\circ} 56.9517' W$ ; running northerly parallel with the shoreline to a point  $33^{\circ} 59.1838' N - 77^{\circ} 56.8694' W$ ; running northerly parallel to the shoreline to a point  $34^{\circ} 00.6158' N - 77^{\circ} 56.4250' W$ ; running northerly parallel to the shoreline to a point  $34^{\circ} 02.0478' N - 77^{\circ} 56.4250' W$ ; running westerly back to a point onshore  $34^{\circ} 02.0642' N - 77^{\circ} 56.6061' W$ .

*History Note: Authority G.S. 113-134; 113-181; 113-182; 143B-289.52; Eff. January 1, 1991; Amended Eff. March 1, 1994; July 1, 1993; September 1, 1991; Recodified from 15A NCAC 3R .0002 Eff. December 17, 1996; Amended Eff. August 1, 2004; May 1, 1997; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**15A NCAC 03R .0103 PRIMARY NURSERY AREAS**

The primary nursery areas referenced in 15A NCAC 03N .0104 are delineated in the following coastal water areas:

- (1) In the Roanoke Sound Area:
  - (a) Shallowbag Bay:
    - (i) Dough Creek - northeast of a line beginning on the west shore at a point 35° 54.5396' N - 75° 39.9681' W; running northeasterly to the east shore to a point 35° 54.4615' N - 75° 40.1598' W; and west of a line that crosses a canal on the east side of Dough Creek beginning on the north shore at a point 35° 54.7103' N - 75° 40.0951' W; running southerly to the south shore to a point 35° 54.6847' N - 75° 40.0882' W; and
    - (ii) Scarborough Creek - south of a line beginning on the west shore at a point 35° 53.9801' N - 75° 39.5985' W; running northeasterly to the east shore to a point 35° 54.0372' N - 75° 39.5558' W; and
  - (b) Broad Creek - all waters north of a line beginning on the west shore at a point 35° 51.9287' N - 75° 38.3377' W; running northeasterly to the east shore to a point 35° 52.0115' N - 75° 38.1792' W; and west and south of a line beginning on the north shore at a point 35° 53.3655' N - 75° 38.0254' W; running southeasterly to the south shore to a point 35° 53.3474' N - 75° 37.9430' W;
- (2) In the Northern Pamlico Sound Area:
  - (a) Long Shoal River:
    - (i) Long Shoal River - northwest of a line beginning on the north shore at a point 35° 38.0175' N - 75° 52.9270' W; running southwesterly to the south shore to a point 35° 37.8369' N - 75° 53.1060' W;
    - (ii) Deep Creek - southeast of a line beginning on the north shore at a point 35° 37.7346' N - 75° 52.1383' W; running southwesterly to the south shore to a point 35° 37.6673' N - 75° 52.2997' W;
    - (iii) Broad Creek - west of a line beginning on the north shore at a point 35° 35.9820' N - 75° 53.6789' W; running southerly to the south shore to a point 35° 35.7093' N - 75° 53.7335' W;
    - (iv) Muddy Creek - east of a line beginning on the north shore at a point 35° 36.4566' N - 75° 52.1460' W; running southerly to the south shore to a point 35° 36.2828' N - 75° 52.1640' W;
    - (v) Pains Bay - north of a line beginning on the west shore at a point 35° 35.4517' N - 75° 49.1414' W; running easterly to the east shore to a point 35° 35.4261' N - 75° 48.8029' W;
    - (vi) Otter Creek - southwest of a line beginning on the west shore at a point 35° 33.2597' N - 75° 55.2129' W; running easterly to the east shore to a point 35° 33.1995' N - 75° 54.8949' W; and
    - (vii) Clark Creek - northeast of a line beginning on the north shore at a point 35° 35.7776' N - 75° 51.4652' W; running southeasterly to the south shore to a point 35° 35.7128' N - 75° 51.4188' W;
  - (b) Far Creek - west of a line beginning on the north shore at a point 35° 30.9782' N - 75° 57.7611' W; running southerly to Gibbs Point to a point 35° 30.1375' N - 75° 57.8108' W;
  - (c) Middletown Creek - west of a line beginning on the north shore at a point 35° 28.4868' N - 75° 59.8186' W; running southwesterly to the south shore to a point 35° 28.1919' N - 76° 00.0216' W;
  - (d) Wysocking Bay:
    - (i) Lone Tree Creek - east of a line beginning on the north shore at a point 35° 25.6048' N - 76° 02.3577' W; running southeasterly to the south shore to a point 35° 25.1189' N - 76° 02.0499' W;
    - (ii) Wysocking Bay - north of a line beginning on the west shore at a point 35° 25.7793' N - 76° 03.5773' W; running northeasterly to the east shore to a point 35° 25.9585' N - 76° 02.9055' W;

- (iii) Douglas Bay - northwest of a line beginning on Mackey Point at a point 35° 25.2627' N - 76° 03.1702' W; running southwesterly to the south shore to a point 35° 24.8225' N - 76° 03.6353' W; and
- (iv) Tributaries west of Brown Island - west of a line beginning on Brown Island at a point 35° 24.3606' N - 76° 04.4557' W; running southerly to the north shore of Brown Island to a point 35° 24.2081' N - 76° 04.4622' W; and northwest of a line beginning on the south shore of Brown Island at a point 35° 23.8255' N - 76° 04.4761' W; running southwesterly to a point 35° 23.6543' N - 76° 04.8630' W;
- (e) East Bluff Bay - Harbor Creek east of a line beginning on the north shore at a point 35° 21.5762' N - 76° 07.8755' W; running southerly to a point 35° 21.4640' N - 76° 07.8750' W; running easterly to the south shore to a point 35° 21.4332' N - 76° 07.7211' W;
- (f) Cunning Harbor tributaries - north of a line beginning on the west shore at a point 35° 20.7567' N - 76° 12.6379' W; running easterly to the east shore to a point 35° 20.7281' N - 76° 12.2292' W;
- (g) Juniper Bay:
  - (i) Upper Juniper Bay - north of a line beginning on the west shore at a point 35° 23.1687' N - 76° 15.1921' W; running easterly to the east shore to a point 35° 23.1640' N - 76° 14.9892' W;
  - (ii) Rattlesnake Creek - west of a line beginning on the north shore at a point 35° 22.9453' N - 76° 15.2748' W, running southerly to the south shore to a point 35° 22.8638' N - 76° 15.3461' W;
  - (iii) Buck Creek - north of a line beginning on the west shore at a point 35° 21.5220' N - 76° 13.8865' W; running southeasterly to the east shore to a point 35° 21.3593' N - 76° 13.7039' W;
  - (iv) Laurel Creek - east of a line beginning on the north shore at a point 35° 20.6693' N - 76° 13.3177' W; running southerly to the south shore to a point 35° 20.6082' N - 76° 13.3305' W; and
  - (v) Old Haulover - west of a line beginning on the north shore at a point 35° 22.0186' N - 76° 15.6736' W; running southerly to the south shore to a point 35° 21.9708' N - 76° 15.6825' W;
- (h) Swanquarter Bay:
  - (i) Upper Swanquarter Bay - north of a line beginning on the west shore at a point 35° 23.5651' N - 76° 20.6715' W; running easterly to the east shore to a point 35° 23.6988' N - 76° 20.0025' W;
  - (ii) Oyster Creek - east of a line beginning on the north shore at a point 35° 23.1214' N - 76° 19.0026' W; running southeasterly to the south shore to a point 35° 23.0117' N - 76° 18.9591' W; and
  - (iii) Caffee Bay:
    - (A) Unnamed tributary - north of a line beginning on the west shore at a point 35° 22.1604' N - 76° 18.9140' W; running easterly to the east shore to a point 35° 22.1063' N - 76° 18.7500' W;
    - (B) Unnamed tributary - north of a line beginning on the west shore at a point 35° 22.1573' N - 76° 18.5101' W; running easterly to the east shore to a point 35° 22.1079' N - 76° 18.1562' W; and
    - (C) Upper Caffee Bay (Haulover) - east of a line beginning on the north shore at a point 35° 21.8499' N - 76° 17.5199' W; running southerly to the south shore to a point 35° 21.5451' N - 76° 17.4966' W;
- (i) Rose Bay:
  - (i) Rose Bay - north of a line beginning on the west shore at a point 35° 26.6543' N - 76° 25.3992' W; running easterly to Channel Marker "6"; running northeasterly to Watch Point to a point 35° 26.8515' N - 76° 25.0055' W;
  - (ii) Island Point Creek - west of a line beginning on the north shore at a point 35° 26.0413' N - 76° 25.0452' W; running southeasterly to the south shore to a point 35° 25.9295' N - 76° 24.9882' W;
  - (iii) Tooley Creek - west of a line beginning on the north shore at a point 35° 25.4937' N - 76° 25.5324' W; running southerly to the south shore to a point 35° 25.1819' N - 76° 25.5776' W;
  - (iv) Broad Creek - east of a line beginning on the north shore at a point 35° 24.4620' N - 76° 23.3398' W; running southwesterly to the south shore to a point 35° 24.2352' N - 76° 23.5158' W;

- (v) Lightwood Snag Bay - northwest of a line beginning on the north shore at a point 35° 24.3340' N - 76° 25.9680' W; running southwesterly to a point 35° 24.2610' N - 76° 26.1800' W; running southwesterly to a point on the shore 35° 23.9270' N - 76° 26.3300' W;
- (vi) Deep Bay:
  - (A) Old Haulover - north of a line beginning on the west shore at a point 35° 23.2140' N - 76° 22.8560' W; running easterly to the east shore to a point 35° 23.2124' N - 76° 22.7340' W; and
  - (B) Drum Cove (Stinking Creek) - south of a line beginning on the west shore at a point 35° 22.5212' N - 76° 24.7321' W; running southeasterly to the east shore to a point 35° 22.4282' N - 76° 24.5147' W; and
- (vii) Eastern tributaries (Cedar Hammock and Long Creek) - east of a line beginning on the north shore at a point 35° 24.9119' N - 76° 23.1587' W; running southerly to the south shore to a point 35° 24.6700' N - 76° 23.2171' W;
- (j) Spencer Bay:
  - (i) Germantown Bay:
    - (A) Ditch Creek - northwest of a line beginning on the north shore at a point 35° 24.1874' N - 76° 27.8527' W; running southwesterly to the south shore to a point 35° 24.0937' N - 76° 27.9348' W;
    - (B) Jenette Creek - northwest of a line beginning on the north shore at a point 35° 24.5054' N - 76° 27.6258' W; running southwesterly to the south shore to a point 35° 24.4642' N - 76° 27.6659' W;
    - (C) Headwaters of Germantown Bay - north of a line beginning on the west shore at a point 35° 24.8345' N - 76° 27.2605' W; running southeasterly to the east shore to a point 35° 24.6210' N - 76° 26.9221' W; and
    - (D) Swan Creek - southeast of a line beginning on the north shore at a point 35° 24.4783' N - 76° 27.1513' W; running southwesterly to the south shore to a point 35° 24.3899' N - 76° 27.2809' W;
  - (ii) Unnamed tributary - west of a line beginning on the north shore at a point 35° 22.9741' N - 76° 28.3469' W; running southerly to the south shore to a point 35° 22.8158' N - 76° 28.3280' W;
  - (iii) Unnamed tributary - west of a line beginning on the north shore at a point 35° 23.1375' N - 76° 28.5681' W; running southerly to the south shore to a point 35° 23.0209' N - 76° 28.5060' W;
  - (iv) Unnamed tributary - southwest of a line beginning on the north shore at a point 35° 23.3775' N - 76° 28.7332' W; running southeasterly to the south shore to a point 35° 23.3297' N - 76° 28.5608' W;
  - (v) Unnamed tributaries - northwest of a line beginning on the north shore at a point 35° 23.7207' N - 76° 28.6590' W; running southwesterly to the south shore to a point 35° 23.4738' N - 76° 28.7763' W;
  - (vi) Upper Spencer Bay - northwest of a line beginning on the north shore at a point 35° 24.3129' N - 76° 28.5300' W; running southwesterly to the south shore to a point 35° 23.9681' N - 76° 28.7671' W; and
  - (vii) Spencer Creek - east of a line beginning on the north shore at a point 35° 23.9990' N - 76° 27.3702' W; running southerly to the south shore to a point 35° 23.8598' N - 76° 27.4037' W;
- (k) Long Creek - north of a line beginning on the west shore at a point 35° 22.4678' N - 76° 28.7868' W; running southeasterly to the east shore to a point 35° 22.3810' N - 76° 28.7064' W;
- (l) Willow Creek - east of a line beginning on the north shore at a point 35° 23.1370' N - 76° 29.8829' W; running southeasterly to the south shore to a point 35° 22.9353' N - 76° 29.7215' W;
- (m) Abels Bay - north and east of a line beginning on the west shore at a point 35° 24.1072' N - 76° 30.3848' W; running southeasterly to the east shore to a point 35° 23.9898' N - 76° 30.1178' W; thence running southerly to the south shore to a point 35° 23.6947' N - 76° 30.1900' W; and
- (n) Crooked Creek - north of a line beginning on the west shore at a point 35° 24.4138' N - 76° 32.2124' W; running easterly to the east shore to a point 35° 24.3842' N - 76° 32.0419' W;
- (3) In the Pungo River Area:
  - (a) Fortescue Creek:

- (i) Headwaters of Fortescue Creek - southeast of a line beginning on the south shore at a point 35° 25.5379' N - 76° 30.6923' W; running easterly to the north shore to a point 35° 25.5008' N - 76° 30.5537' W;
  - (ii) Warner Creek - north of a line beginning on the west shore at a point 35° 26.2778' N - 76° 31.5463' W; running easterly to the east shore to a point 35° 26.3215' N - 76° 31.4522' W;
  - (iii) Island Creek - north of a line beginning on the west shore at a point 35° 26.1342' N - 76° 32.3883' W; running easterly to the east shore to a point 35° 26.1203' N - 76° 32.2603' W;
  - (iv) Dixon Creek - south of a line beginning on the west shore at a point 35° 25.5766' N - 76° 31.8489' W; running easterly to the east shore to a point 35° 25.5865' N - 76° 31.6960' W;
  - (v) Pasture Creek - north of a line beginning on the west shore at a point 35° 25.9437' N - 76° 31.8468' W; running southwesterly to the east shore to a point 35° 25.9918' N - 76° 31.7224' W;
  - (vi) Cox, Snell, and Seer Creeks - northeast of a line beginning on the west shore at a point 35° 26.0496' N - 76° 31.2087' W; running southeasterly to the east shore to a point 35° 25.8497' N - 76° 30.8828' W;
  - (vii) Unnamed tributary on the north side of Fortescue Creek - northeast of a line beginning on the west shore at a point 35° 25.7722' N - 76° 30.7825' W; running southeasterly to the east shore to a point 35° 25.7374' N - 76° 30.7102' W; and
  - (viii) Runway Creek - northeast of a line beginning on the west shore at a point 35° 25.6547' N - 76° 30.6637' W; running easterly to the east shore to a point 35° 25.6113' N - 76° 30.5714' W;
- (b) Slade Creek:
- (i) Upper Slade Creek - south of a line beginning on the north shore at a point 35° 27.9168' N - 76° 30.5189' W; running westerly to the south shore to a point 35° 27.9532' N - 76° 30.7140' W;
  - (ii) Jarvis Creek - northeast of a line beginning on the west shore at a point 35° 28.2450' N - 76° 30.8921' W; running southeasterly to the east shore to a point 35° 28.2240' N - 76° 30.8200' W;
  - (iii) Jones Creek - south of a line beginning on the west shore at a point 35° 28.0077' N - 76° 30.9337' W; running southeasterly to the east shore to a point 35° 27.9430' N - 76° 30.8938' W;
  - (iv) Becky Creek - north of a line beginning on the west shore at a point 35° 28.6081' N - 76° 31.6886' W; running northeasterly to the east shore to a point 35° 28.6297' N - 76° 31.6073' W;
  - (v) Neal Creek - north of a line beginning on the west shore at a point 35° 28.7797' N - 76° 31.8657' W; running northeasterly to the east shore to a point 35° 28.8084' N - 76° 31.7727' W;
  - (vi) Wood Creek - north of a line beginning on the west shore at a point 35° 28.5788' N - 76° 32.4163' W; running northeasterly to the east shore to a point 35° 28.6464' N - 76° 32.3339' W;
  - (vii) Spellman Creek - north of a line beginning on the east shore at a point 35° 28.2233' N - 76° 32.6827' W; running southwesterly to the west shore to a point 35° 28.2567' N - 76° 32.6533' W;
  - (viii) Speer Creek - east of a line beginning on the north shore at a point 35° 27.9680' N - 76° 32.3593' W; running southerly to the south shore to a point 35° 27.9216' N - 76° 32.3862' W;
  - (ix) Church Creek and Speer Gut - east of a line beginning on the north shore at a point 35° 27.5910' N - 76° 32.7412' W; running southwesterly to the south shore to a point 35° 27.5282' N - 76° 32.8227' W; and
  - (x) Allison and Foreman Creek - south of a line beginning on Parmalee Point at a point 35° 27.2812' N - 76° 33.0634' W; running southwesterly to the west shore to a point 35° 27.2418' N - 76° 33.1451' W;
- (c) Flax Pond - west of a line beginning the north shore at a point 35° 32.0297' N - 76° 33.0389' W; running southwesterly to the south shore to a point 35° 31.9212' N - 76° 33.2061' W; and
- (d) Battalina and Tooleys creeks - northwest of a line beginning on the north shore at a point 35° 32.3914' N - 76° 36.1548' W; running southwesterly to the south shore to a point 35° 32.0627' N - 76° 36.3769' W;

- (4) In the Pamlico River Area:
- (a) North Creek:
- (i) North Creek - north of a line beginning on the west shore at a point 35° 25.6764' N - 76° 39.9970' W; running northeasterly to the east shore to a point 35° 25.5870' N - 76° 40.0806' W;
  - (ii) East Fork:
    - (A) Northeast of a line beginning on the west shore at a point 35° 25.8000' N - 76° 39.2679' W; running southeasterly to the east shore to a point 35° 25.6914' N - 76° 39.1374' W; and
    - (B) Unnamed tributary of East Fork - northwest of a line beginning on the north shore at a point 35° 25.6950' N - 76° 39.4337' W; running southwesterly to the south shore to a point 35° 25.6445' N - 76° 39.4698' W;
  - (iii) Frying Pan Creek - east of a line beginning on the north shore at a point 35° 24.9881' N - 76° 39.5948' W; running southwesterly to Chambers Point to a point 35° 24.8508' N - 76° 39.6811' W; and
  - (iv) Little Ease Creek - west of a line beginning on the north shore at a point 35° 25.1463' N - 76° 40.3490' W; running southwesterly to Cousin Point to a point 35° 25.0075' N - 76° 40.4159' W;
- (b) Goose Creek:
- (i) Hatter Creek - west of a line beginning on the north shore at a point 35° 19.9593' N - 76° 37.5992' W; running southerly to the south shore to a point 35° 19.9000' N - 76° 37.5904' W;
  - (ii) Upper Spring Creek:
    - (A) Headwaters of Upper Spring Creek - east of a line beginning on the north shore at a point 35° 16.3636' N - 76° 36.0568' W; running southeasterly to the south shore to a point 35° 16.1857' N - 76° 36.0111' W; and
    - (B) Unnamed tributary - north of a line beginning on the west shore at a point 35° 16.8386' N - 76° 36.4447' W; running easterly to the east shore to a point 35° 16.8222' N - 76° 36.3811' W;
  - (iii) Eastham Creek - east of a line beginning on the north shore at a point 35° 17.7423' N - 76° 36.5164' W; running southeasterly to the south shore to a point 35° 17.5444' N - 76° 36.3963' W;
  - (iv) Mud Gut - northeast of a line beginning on the north shore at a point 35° 17.8754' N - 76° 36.7704' W; running southeasterly to the south shore to a point 35° 17.8166' N - 76° 36.7468' W;
  - (v) Wilkerson Creek - east of a line beginning on the north shore at a point 35° 18.4096' N - 76° 36.7479' W; running southwesterly to the south shore to a point 35° 18.3542' N - 76° 36.7741' W; and
  - (vi) Dixon Creek - east of a line beginning on the north shore at a point 35° 18.8893' N - 76° 36.5973' W; running southerly to the south shore to a point 35° 18.5887' N - 76° 36.7142' W; and
- (c) Oyster Creek - Middle Prong:
- (i) Oyster Creek:
    - (A) West of a line, beginning on the north shore at a point 35° 19.4780' N - 76° 34.0131' W; running southerly to the south shore to a point 35° 19.3796' N - 76° 34.0021' W; and
    - (B) Duck Creek - south of a line beginning on the west shore at a point 35° 19.0959' N - 76° 33.2998' W; running northeasterly to the east shore to a point 35° 19.1553' N - 76° 33.2027' W;
  - (ii) James Creek - southwest of a line beginning on the north shore at a point 35° 18.6045' N - 76° 32.3233' W; running southeasterly to James Creek Point at a point 35° 18.4805' N - 76° 32.0240' W;
  - (iii) Middle Prong - south of a line beginning on the west shore at a point 35° 17.8888' N - 76° 31.9379' W; running southerly to the east shore to a point 35° 17.7323' N - 76° 31.9052' W; and
  - (iv) Clark Creek:
    - (A) Headwaters of Clark Creek (including Mouse Harbor Ditch) - southeast of a line beginning on the west shore at a point 35° 18.1028' N - 76° 31.1661' W; running northeasterly to the east shore to a point 35° 18.1907' N - 76° 31.0610' W; and

- (B) Boat Creek - east of a line beginning on the north shore at a point 35° 18.5520' N - 76° 31.2927' W; running southerly to the south shore to a point 35° 18.4189' N - 76° 31.2660' W;
- (5) In the Western Pamlico Sound Area:
- (a) Mouse Harbor:
- (i) Long Creek - north of a line beginning on the west shore at a point 35° 18.4025' N - 76° 29.8139' W; running northeasterly to the east shore to a point 35° 18.4907' N - 76° 29.5652' W;
- (ii) Lighthouse Creek - north of a line beginning on the west shore at a point 35° 18.5166' N - 76° 29.2166' W; running southeasterly to the east shore to a point 35° 18.4666' N - 76° 29.1666' W; and
- (iii) Cedar Creek and Island creeks - south of a line beginning on the west shore at a point 35° 16.9073' N - 76° 29.8667' W; running southeasterly to the east shore to a point 35° 16.6800' N - 76° 29.4500' W;
- (b) Porpoise Creek - west of a line beginning on the north shore at a point 35° 15.7263' N - 76° 29.4897' W; running southeasterly to the south shore to a point 35° 15.6335' N - 76° 29.3346' W;
- (c) Middle Bay:
- (i) Middle Bay - west of a line beginning on the north shore at a point 35° 14.6137' N - 76° 30.8086' W; running southeasterly to the south shore to a point 35° 14.0631' N - 76° 30.5176' W; and
- (ii) Little Oyster Creek - north of a line beginning on the west shore at a point 35° 14.4745' N - 76° 30.2111' W; running northeasterly to the east shore to a point 35° 14.5825' N - 76° 29.9144' W; and
- (d) Jones Bay, west of the IWW:
- (i) Little Drum Creek and Little Eve Creek - south of a line beginning on the west shore at a point 35° 12.4380' N - 76° 31.7428' W; running southeasterly to the east shore to a point 35° 12.3499' N - 76° 31.2554' W;
- (ii) Ditch Creek - south of a line beginning on the west shore at a point 35° 13.3609' N - 76° 33.6539' W; running southeasterly to the east shore to a point 35° 13.2646' N - 76° 33.1996' W;
- (iii) Lambert Creek - west of a line beginning on the north shore at a point 35° 13.8980' N - 76° 34.3078' W; running southeasterly to the south shore to a point 35° 13.8354' N - 76° 34.2665' W;
- (iv) Headwaters of Jones Bay, (west of the IWW) - west of a line beginning on the north shore at a point 35° 14.4684' N - 76° 35.4307' W; running southerly to the south shore to a point 35° 14.3947' N - 76° 35.4205' W;
- (v) Bills Creek - north of a line beginning on the west shore at a point 35° 14.4162' N - 76° 34.8566' W; running northerly to the east shore to a point 35° 14.4391' N - 76° 34.7248' W;
- (vi) Doll Creek - north of a line beginning on the west shore at a point 35° 14.3320' N - 76° 34.2935' W; running southeasterly to the east shore to a point 35° 14.2710' N - 76° 34.0406' W; and
- (vii) Drum Creek - north of a line beginning on the west shore at a point 35° 14.1764' N - 76° 33.2632' W; running easterly to the east shore to a point 35° 14.1620' N - 76° 33.0614' W;
- (6) In the Bay River Area:
- (a) Mason Creek - southeast of a line beginning on the north shore at a point 35° 08.2531' N - 76° 41.4897' W; running southwesterly to the west shore to a point 35° 08.1720' N - 76° 41.6340' W;
- (b) Moore Creek - southeast of a line beginning on the north shore at a point 35° 08.9671' N - 76° 40.2017' W; running southeasterly to the south shore to a point 35° 08.8629' N - 76° 40.1598' W;
- (c) Small tributaries from Bell Point to Ball Creek:
- (i) Tributary west of Bell Point - south of a line beginning on the west shore at a point 35° 09.9536' N - 76° 39.3977' W; running northeasterly to the east shore to a point 35° 09.9970' N - 76° 39.3420' W;
- (ii) Little Pasture Creek - south of a line beginning on the west shore at a point 35° 09.8944' N - 76° 39.1483' W; running southeasterly to the east shore to a point 35° 09.8417' N - 76° 39.1130' W; and

- (iii) Rice Creek - south of a line beginning on the west shore at a point 35° 09.7616' N - 76° 38.9686' W; running southeasterly to the east shore to a point 35° 09.7378' N - 76° 38.8833' W;
- (d) Ball and Cabin creeks - south of a line beginning on the west shore at a point 35° 09.6479' N - 76° 37.9973' W; running southeasterly to the east shore to a point 35° 09.5589' N - 76° 37.5879' W;
- (e) Bonner Bay:
  - (i) Riggs Creek - west of a line beginning on the north shore at a point 35° 09.4050' N - 76° 36.2205' W; running southeasterly to the south shore to a point 35° 09.2298' N - 76° 36.0949' W;
  - (ii) Spring Creek - west of a line beginning on the north shore at a point 35° 08.5149' N - 76° 36.0799' W; running southerly to the south shore to a point 35° 08.3575' N - 76° 36.0713' W;
  - (iii) Bryan and Ives creeks - south of a line beginning on the west shore at a point 35° 08.3632' N - 76° 35.8653' W; running northeasterly to the east shore to a point 35° 08.4109' N - 76° 35.7075' W;
  - (iv) Long Creek Gut - north of a line beginning on the west shore at a point 35° 09.1993' N - 76° 34.8517' W; running easterly to the east shore to a point 35° 09.1987' N - 76° 34.5373' W;
  - (v) Dipping Vat Creek - east of a line beginning on the north shore at a point 35° 09.2734' N - 76° 34.3363' W; running southerly to the south shore to a point 35° 09.1212' N - 76° 34.3667' W;
  - (vi) Long Creek - east of a line beginning on the west shore at a point 35° 08.1404' N - 76° 34.5741' W; running northeasterly to the east shore to a point 35° 08.2078' N - 76° 34.4819' W; and
  - (vii) Cow Gallus Creek - west of a line beginning on the north shore at a point 35° 08.5125' N - 76° 34.6417' W; running southerly to the south shore to a point 35° 08.4083' N - 76° 34.6131' W;
- (f) Rock Hole Bay - northeast of a line beginning on the west shore at a point 35° 11.6478' N - 76° 32.5840' W; running southeasterly to the east shore to a point 35° 11.2664' N - 76° 32.2160' W;
- (g) Dump Creek - north of a line beginning on the west shore at a point 35° 11.7105' N - 76° 33.4228' W; running easterly to the east shore to a point 35° 11.7174' N - 76° 33.1807' W;
- (h) Tributaries east of IWW at Gales Creek:
  - (i) Raccoon Creek - east of a line beginning on the north shore at a point 35° 12.9169' N - 76° 35.4930' W; running southeasterly to the south shore to a point 35° 12.6515' N - 76° 35.3368' W; and
  - (ii) Ditch Creek - east of a line beginning on the north shore at a point 35° 12.4460' N - 76° 35.0707' W; running southeasterly to the south shore to a point 35° 12.3495' N - 76° 34.9917' W;
- (i) Tributaries west of IWW at Gales Creek:
  - (i) Jumpover Creek - west of a line beginning on the north shore at a point 35° 13.2830' N - 76° 35.5843' W; running southerly to the south shore to a point 35° 13.2035' N - 76° 35.5844' W;
  - (ii) Gales Creek - west of a line beginning on the north shore at a point 35° 12.9653' N - 76° 35.6600' W; running southerly to the south shore to a point 35° 12.8032' N - 76° 35.6366' W; and
  - (iii) Whealton and Tar creeks - west of a line beginning on the north shore at a point 35° 12.7334' N - 76° 35.5430' W; running southeasterly to the south shore to a point 35° 12.4413' N - 76° 35.3594' W;
- (j) Chadwick and No Jacket creeks - north of a line beginning on the west shore at a point 35° 11.9511' N - 76° 35.8899' W; running northeasterly to the east shore to a point 35° 12.0599' N - 76° 35.3973' W;
- (k) Bear Creek - west of a line beginning on the north shore at a point 35° 11.7526' N - 76° 36.2721' W; running southwesterly to the south shore to a point 35° 11.5781' N - 76° 36.3366' W;
- (l) Little Bear Creek - north of a line beginning on the west shore at a point 35° 11.1000' N - 76° 36.3060' W; running northeasterly to the east shore to a point 35° 11.2742' N - 76° 35.9822' W;
- (m) Tributaries to Bay River from Petty Point to Sanders Point:
  - (i) Oyster Creek - north of a line beginning on the west shore at a point 35° 10.7971' N - 76° 36.7399' W; running northeasterly to the east shore to a point 35° 10.9493' N - 76° 36.4878' W;

- (ii) Potter Creek - north of a line beginning on the west shore at a point 35° 10.7259' N - 76° 37.0764' W; running northeasterly to the east shore to a point 35° 10.7778' N - 76° 36.7933' W;
- (iii) Barnes and Gascon creeks - north of a line beginning on the west shore at a point 35° 10.6396' N - 76° 37.3137' W; running northeasterly to the east shore to a point 35° 10.6929' N - 76° 37.2087' W;
- (iv) Harris Creek - north of a line beginning on the west shore at a point 35° 10.5922' N - 76° 37.5333' W; running northeasterly to the east shore to a point 35° 10.6007' N - 76° 37.5103' W; and
- (v) Mesic Creek - north of a line beginning on the west shore at a point 35° 10.5087' N - 76° 37.9520' W; running easterly to the east shore to a point 35° 10.4830' N - 76° 37.8477' W;
- (n) In Vandemere Creek:
  - (i) Cedar Creek - north of a line beginning on the west shore at a point 35° 11.2495' N - 76° 39.5727' W; running northeasterly to the east shore to a point 35° 11.2657' N - 76° 39.5238' W;
  - (ii) Long Creek - east of a line beginning on the north shore at a point 35° 11.4779' N - 76° 38.7790' W; running southerly to the south shore to a point 35° 11.4220' N - 76° 38.7521' W; and
  - (iii) Little Vandemere Creek - north of a line beginning on the west shore at a point 35° 12.1449' N - 76° 39.2620' W; running southeasterly to the east shore to a point 35° 12.1182' N - 76° 39.1993' W;
- (o) Smith Creek - north of a line beginning on the west shore to a point 35° 10.4058' N - 76° 40.2565' W; running northeasterly to the east shore to a point 35° 10.4703' N - 76° 40.1593' W;
- (p) Harper Creek - west of a line beginning on the north shore at a point 35° 09.2767' N - 76° 41.8489' W; running southwesterly to the south shore to a point 35° 09.1449' N - 76° 41.9137' W;
- (q) Chapel Creek - north of a line beginning on the west shore at a point 35° 08.9333' N - 76° 42.8382' W; running northeasterly to the east shore to a point 35° 08.9934' N - 76° 42.7694' W; and
- (r) Swindell Bay - south of a line beginning on the west shore at a point 35° 08.2580' N - 76° 42.9380' W; running southeasterly to the east shore to a point 35° 08.2083' N - 76° 42.8031' W;
- (7) In the Neuse River Area North Shore:
  - (a) Swan Creek - west of a line beginning on the south shore at a point 35° 06.5470' N - 76° 33.8203' W; running northeasterly to a point 35° 06.4155' N - 76° 33.9479' W; running to the south shore of Swan Island to a point 35° 06.3168' N - 76° 34.0263' W; running northeasterly to a point 35° 06.6705' N - 76° 33.7307' W, running northeasterly to the north shore to a point 35° 06.8183' N - 76° 33.5971' W;
  - (b) Broad Creek:
    - (i) Greens Creek - north of a line beginning on the west shore at a point 35° 06.0730' N - 76° 35.5110' W; running southeasterly to the east shore to a point 35° 05.9774' N - 76° 35.3704' W;
    - (ii) Pittman Creek - north of a line beginning on the west shore at a point 35° 05.8143' N - 76° 36.1475' W; running northeasterly to the east shore to a point 35° 05.8840' N - 76° 36.0144' W;
    - (iii) Burton Creek - west of a line beginning on the north shore at a point 35° 05.7174' N - 76° 36.4797' W; running southwesterly to the south shore to a point 35° 05.6278' N - 76° 36.5067' W;
    - (iv) All tributaries on the north shore of Broad Creek - north of a line beginning on the west shore of the western most tributary at a point 35° 05.5350' N - 76° 37.4058' W; running easterly to a point 35° 05.4752' N - 76° 36.9672' W; running to a point 35° 05.4868' N - 76° 36.9163' W; north of a line beginning on the west shore of the eastern most tributary at 35° 05.4415' N - 76° 36.7869' W, running northeasterly to a point 35° 05.4664' N - 76° 36.7540' W;
    - (v) Brown Creek - northwest of a line beginning on the west shore at a point 35° 05.5310' N - 76° 37.8132' W; running northeasterly to the east shore to a point 35° 05.5737' N - 76° 37.6908' W;
    - (vi) Broad Creek including Gideon Creek - west of a line beginning on the north shore at a point 35° 05.5310' N - 76° 37.8132' W; running southerly to the south shore to a point 35° 05.3212' N - 76° 37.8398' W;

- (vii) Tar Creek - south of a line beginning on the west shore at a point 35° 05.2604' N - 76° 37.5093' W; running easterly to the east shore to a point 35° 05.2728' N - 76° 37.6251' W;
- (viii) Tributary east of Tar Creek - south of a line beginning on the west shore at a point 35° 05.3047' N - 76° 37.0316' W; running easterly to the east shore to a point 35° 05.2674' N - 76° 36.8086' W;
- (ix) Tributary east of Tar Creek - south of a line beginning on the west shore at a point 35° 05.2674' N - 76° 36.8086' W; running easterly to the east shore to a point 35° 05.2445' N - 76° 36.5416' W;
- (x) Parris Creek - south of a line beginning on the west shore at a point 35° 05.2445' N - 76° 36.5416' W; running southeasterly to the east shore to a point 35° 05.2031' N - 76° 36.4573' W;
- (xi) Mill Creek - south of a line beginning on the west shore at a point 35° 05.4439' N - 76° 36.0260' W; running northeasterly to the east shore to a point 35° 05.4721' N - 76° 35.8835' W; and
- (xii) Cedar Creek - south of a line beginning on the west shore at a point 35° 05.3711' N - 76° 35.6556' W; running southeasterly to the east shore to a point 35° 05.2867' N - 76° 35.5348' W;
- (c) Orchard and Old House creeks - north of a line beginning on the west shore at a point 35° 03.3302' N - 76° 38.4478' W; running northeasterly to the east shore to a point 35° 03.6712' N - 76° 37.9040' W;
- (d) Pierce Creek - north of a line beginning on the west shore at a point 35° 02.5030' N - 76° 40.0536' W; running northeasterly to the east shore to a point 35° 02.5264' N - 76° 39.9901' W;
- (e) Whittaker Creek - north of a line beginning on the west shore at a point 35° 01.7186' N - 76° 41.1309' W; running easterly to the east shore to a point 35° 01.6702' N - 76° 40.9036' W;
- (f) Oriental:
  - (i) Smith and Morris creeks - north of a line beginning on the west shore at a point 35° 02.1553' N - 76° 42.2931' W; running southeasterly to the east shore to a point 35° 02.1097' N - 76° 42.1806' W;
  - (ii) Unnamed tributary west of Dewey Point - north of a line beginning on the west shore at a point 35° 01.3704' N - 76° 42.4906' W; running northeasterly to the east shore to a point 35° 01.3530' N - 76° 42.4323' W;
  - (iii) Unnamed tributary on the south shore of Greens Creek - south of a line beginning on the west shore at a point 35° 01.4340' N - 76° 42.7920' W; running southeasterly to the east shore to a point 35° 01.4040' N - 76° 42.7320' W;
  - (iv) Unnamed tributary on the south shore of Greens Creek - south of a line beginning on the west shore at a point 35° 01.3680' N - 76° 42.4920' W; running southeasterly to the east shore to a point 35° 01.3560' N - 76° 42.4320' W;
  - (v) Greens Creek - west of a line beginning on the north shore at a point 35° 01.5985' N - 76° 42.9959' W; running southeasterly to the south shore to a point 35° 01.4759' N - 76° 42.9570' W;
  - (vi) Kershaw Creek - north of a line beginning on the west shore at a point 35° 01.5985' N - 76° 42.9959' W; running easterly to the east shore to a point 35° 01.6077' N - 76° 42.8459' W; and
  - (vii) Shop Gut Creek - west of a line beginning on the north shore at a point 35° 01.2720' N - 76° 42.1500' W; running southerly to the south shore to a point 35° 01.1700' N - 76° 42.1380' W;
- (g) Dawson Creek:
  - (i) Unnamed eastern tributary of Dawson Creek - east of a line beginning on the north shore at a point 35° 00.2064' N - 76° 45.2652' W; running southeasterly to the south shore to a point 35° 00.1790' N - 76° 45.2289' W; and
  - (ii) Unnamed tributary of Dawson Creek (at mouth) - east of a line beginning on the north shore at a point 34° 59.6620' N - 76° 45.1156' W; running southerly to the south shore to a point 34° 59.6326' N - 76° 45.1177' W; and
- (h) Beard Creek tributary - southeast of a line beginning on the north shore at a point 35° 00.3176' N - 76° 51.9098' W; running southwesterly to the southwest shore to a point 35° 00.1884' N - 76° 51.9850' W;
- (8) In the Neuse River Area South Shore:
  - (a) Clubfoot Creek - south of a line beginning on the west shore at a point 34° 52.4621' N - 76° 45.9256' W; running easterly to the east shore to a point 34° 52.4661' N - 76° 45.7567' W;

- (i) Mitchell Creek - west of a line beginning on the north shore at a point 34° 54.4176' N - 76° 45.7680' W; running southerly to the south shore to a point 34° 54.2610' N - 76° 45.8277' W; and
- (ii) Gulden Creek - east of a line beginning on the north shore at a point 34° 54.1760' N - 76° 45.4438' W; running southerly to the south shore to a point 34° 54.0719' N - 76° 45.4888' W;
- (b) Adams Creek:
  - (i) Godfrey Creek - south of a line beginning on the west shore at a point 34° 57.3104' N - 76° 41.1292' W; running easterly to the east shore to a point 34° 57.2655' N - 76° 41.1187' W;
  - (ii) Delamar Creek - south of a line beginning on the west shore at a point 34° 57.0475' N - 76° 40.7230' W; running southeasterly to the east shore to a point 34° 57.0313' N - 76° 40.7015' W;
  - (iii) Kellum Creek - west of a line beginning on the north shore at a point 34° 55.5240' N - 76° 39.8072' W; running southeasterly to the south shore to a point 34° 55.4356' N - 76° 39.8201' W;
  - (iv) Kearney Creek and unnamed tributary - west of a line beginning on the north shore of the north creek at a point 34° 55.1847' N - 76° 39.9686' W; running southerly to the south shore to a point 34° 54.9661' N - 76° 40.0091' W;
  - (v) Isaac Creek - south of a line beginning on the west shore at a point 34° 54.2457' N - 76° 40.1010' W; running easterly to the east shore to a point 34° 54.2630' N - 76° 40.0088' W;
  - (vi) Back Creek - southeast of a line beginning on the northeast shore at a point 34° 54.6598' N - 76° 39.5257' W; running southwesterly to the southwest shore to a point 34° 54.5366' N - 76° 39.7075' W;
  - (vii) Cedar Creek - southeast of a line beginning on the west shore at a point 34° 55.7759' N - 76° 38.6070' W; running easterly to the east shore to a point 34° 55.7751' N - 76° 38.4965' W;
  - (viii) Jonaquin Creek - northeast of a line beginning on the west shore at a point 34° 56.1192' N - 76° 38.4997' W; running easterly to the east shore to a point 34° 56.1172' N - 76° 38.4584' W;
  - (ix) Dumpling Creek - east of a line beginning on the northwest shore at a point 34° 56.9187' N - 76° 39.5559' W; running southeasterly to the southeast shore to a point 34° 56.8421' N - 76° 39.5155' W; and
  - (x) Sandy Huss Creek - northeast of a line beginning on the west shore at a point 34° 57.2348' N - 76° 39.8457' W; running southeasterly to the east shore to a point 34° 57.1638' N - 76° 39.7169' W;
- (c) Garbacon Creek - south of a line beginning on the west shore at a point 34° 59.0044' N - 76° 38.5758' W; running easterly to the east shore to a point 34° 59.0006' N - 76° 38.4845' W;
- (d) South River:
  - (i) Big Creek - southwest of a line beginning on the northwest shore at a point 34° 56.9502' N - 76° 35.3498' W; running southeasterly to the southeast shore to a point 34° 56.8346' N - 76° 35.2091' W; and
  - (ii) Horton Bay - north of a line beginning on the west shore at a point 34° 59.1936' N - 76° 34.7657' W; running easterly to the east shore to a point 34° 59.2023' N - 76° 34.4586' W;
- (e) Brown Creek - south of a line beginning on the west shore at a point 34° 59.8887' N - 76° 33.5707' W; running easterly to the east shore to a point 34° 59.9440' N - 76° 33.4180' W; and
- (f) Turnagain Bay:
  - (i) Abraham Bay - west of a line beginning on the north shore at a point 35° 00.1780' N - 76° 30.7564' W; running southerly to the south shore to a point 34° 59.8338' N - 76° 30.7128' W;
  - (ii) Broad Creek and Persons Creek - southwest of a line beginning at a point on the north shore 34° 59.1974' N - 76° 30.4118' W; running southeasterly to the south shore to a point 34° 58.9738' N - 76° 30.1168' W;
  - (iii) Mulberry Point Creek - east of a line beginning on the north shore at a point 35° 00.4736' N - 76° 29.7538' W; running southerly to the south shore to a point 35° 00.3942' N - 76° 29.7082' W;

- (iv) Tump Creek - east of a line beginning on the north shore at a point 35° 00.2035' N - 76° 29.5947' W; running southerly to the south shore to a point 35° 00.0500' N - 76° 29.4897' W;
  - (v) Tributary south of Tump Creek - east of a line beginning on the north shore at a point 34° 59.7784' N - 76° 29.3548' W; running southerly to the south shore to a point 34° 59.6830' N - 76° 29.3303' W;
  - (vi) Deep Gut - northeast of a line beginning on the north shore at a point 34° 59.6134' N - 76° 29.0376' W; running southeasterly to the south shore to a point 34° 59.4799' N - 76° 28.9362' W; and
  - (vii) Big Gut - east of a line beginning on the north shore at a point 34° 59.0816' N - 76° 28.7076' W; running southerly to the south shore to a point 34° 58.9300' N - 76° 28.7383' W;
- (9) West Bay - Long Bay Area:
- (a) Fur Creek and Henrys Creek - southwest of a line beginning on the northwest shore at a point 34° 56.5580' N - 76° 27.7065' W; running southeasterly to the southeast shore to a point 34° 56.3830' N - 76° 27.4563' W; and
  - (b) Cadduggen Creek - south of a line beginning on the west shore at a point 34° 56.5767' N - 76° 23.8711' W; running easterly to the east shore to a point 34° 56.2890' N - 76° 23.6626' W;
- (10) Core Sound Area:
- (a) Cedar Island Bay - northwest of a line beginning on the northeast shore at a point 34° 59.7770' N - 76° 17.3837' W; running southwesterly to the southwest shore to a point 34° 59.0100' N - 76° 17.9339' W;
  - (b) Lewis Creek - north of a line beginning on the west shore at a point 34° 56.8736' N - 76° 16.8740' W; running easterly to the east shore to a point 34° 56.9455' N - 76° 16.8234' W;
  - (c) Thorofare Bay:
    - (i) Merkle Hammock Creek - southwest of a line beginning on the northwest shore at a point 34° 55.4796' N - 76° 21.4463' W; running southeasterly to the southeast shore to a point 34° 55.3915' N - 76° 21.1682' W; and
    - (ii) Barry Bay - west of a line beginning on the north shore at a point 34° 54.6450' N - 76° 20.6127' W; running southerly to the south shore to a point 34° 54.4386' N - 76° 20.4912' W;
  - (d) Nelson Bay:
    - (i) Willis Creek and Fulchers Creek - west of a line beginning on the north shore of Willis Creek at a point 34° 51.1006' N - 76° 24.5996' W; running southerly to the south shore of Fulchers Creek to a point 34° 50.2861' N - 76° 24.8708' W; and
    - (ii) Lewis Creek - west of a line beginning on the north shore at a point 34° 51.9362' N - 76° 24.6322' W; running southerly to the south shore to a point 34° 51.7323' N - 76° 24.6487' W;
  - (e) Cedar Creek between Sea Level and Atlantic - west of a line beginning on the north shore at a point 34° 52.0126' N - 76° 22.7046' W; running southerly to the south shore to a point 34° 51.9902' N - 76° 22.7190' W;
  - (f) Oyster Creek, northwest of the Highway 70 Bridge; and
  - (g) Jarretts Bay Area:
    - (i) Smyrna Creek - northwest of the Highway 70 Bridge;
    - (ii) Ditch Cove and adjacent tributary - east of a line beginning on the north shore at a point 34° 48.0167' N - 76° 28.4674' W; running southerly to the south shore to a point 34° 47.6143' N - 76° 28.6473' W;
    - (iii) Broad Creek - northwest of a line beginning on the west shore at a point 34° 47.7820' N - 76° 29.2724' W; running northeasterly to the east shore to a point 34° 47.9766' N - 76° 28.9729' W;
    - (iv) Howland Creek - northwest of a line beginning on the northeast shore at a point 34° 47.5129' N - 76° 29.6217' W; running southwesterly to the southwest shore to a point 34° 47.3372' N - 76° 29.8607' W;
    - (v) Great Creek - southeast of a line beginning on the northeast shore at a point 34° 47.4279' N - 76° 28.9565' W; running southwesterly to the southwest shore to a point 34° 47.1515' N - 76° 29.2077' W;
    - (vi) Williston Creek - northwest of the Highway 70 Bridge;
    - (vii) Wade Creek - west of a line beginning on the north shore at a point 34° 46.3022' N - 76° 30.5443' W; running southerly to the south shore to a point 34° 46.2250' N - 76° 30.3864' W;

- (viii) Jump Run - north of a line beginning on the west shore at a point 34° 45.5385' N - 76° 30.3974' W; running easterly to the east shore to a point 34° 45.5468' N - 76° 30.3485' W;
  - (ix) Middens Creek - west of a line beginning on the north shore at a point 34° 45.5046' N - 76° 30.9710' W; running southerly to the south shore to a point 34° 45.4093' N - 76° 30.9584' W;
  - (x) Tusk Creek - northwest of a line beginning on the northwest shore at a point 34° 44.8049' N - 76° 30.6248' W; running southerly to the south shore to a point 34° 44.6074' N - 76° 30.7553' W; and
  - (xi) Creek west of Bells Island - west of a line beginning on the north shore at a point 34° 43.9531' N - 76° 30.4144' W; running southerly to the south shore to a point 34° 43.7825' N - 76° 30.3543' W;
- (11) Straits, North River, Newport River Area:
- (a) Straits:
    - (i) Sleepy Creek - north of a line beginning on the west shore at a point 34° 43.3925' N - 76° 31.4912' W; running easterly to the east shore to a point 34° 43.3651' N - 76° 31.3250' W;
    - (ii) Dicks Creek - north of a line beginning on the west shore at a point 34° 43.3858' N - 76° 32.9125' W; running southeasterly to the east shore to a point 34° 43.3912' N - 76° 32.8605' W; and
    - (iii) Whitehurst Creek - north of a line beginning on the west shore at a point 34° 43.5118' N - 76° 33.3392' W; running northeasterly to the east shore to a point 34° 43.5561' N - 76° 33.1869' W;
  - (b) North River, north of Highway 70 Bridge:
    - (i) Ward Creek - north of Highway 70 Bridge:
      - (A) North Leopard Creek - southeast of a line beginning on the southwest shore at a point 34° 45.9573' N - 76° 34.4208' W; running northeasterly to the northeast shore to a point 34° 46.0511' N - 76° 34.3170' W; and
      - (B) South Leopard Creek - southeast of a line beginning on the southwest shore at a point 34° 45.4930' N - 76° 34.7622' W; running northeasterly to the northeast shore to a point 34° 45.5720' N - 76° 34.6236' W; and
    - (ii) Turner Creek (Gibbs Creek) - west of a line beginning on the north shore at a point 34° 43.4693' N - 76° 37.6372' W; running southerly to the south shore to a point 34° 43.4054' N - 76° 37.6585' W; and
  - (c) Newport River - west of a line beginning on the north shore at a point 34° 46.5635' N - 76° 44.3998' W; running southerly to Lawton Point to a point 34° 45.6840' N - 76° 44.0895' W;
    - (i) Russel Creek - northeast of a line beginning on the north shore at a point 34° 45.5840' N - 76° 39.8020' W; running southeasterly to the south shore to a point 34° 45.5819' N - 76° 39.7895' W;
    - (ii) Ware Creek - northeast of a line beginning on the north shore at a point 34° 46.4576' N - 76° 40.5020' W; running southeasterly to the south shore to a point 34° 46.4125' N - 76° 40.4460' W;
    - (iii) Bell Creek - east of a line beginning on the north shore at a point 34° 47.2805' N - 76° 40.9082' W; running southerly to the south shore to a point 34° 47.0581' N - 76° 40.8854' W;
    - (iv) Eastman Creek - east of a line beginning on the north shore at a point 34° 47.8640' N - 76° 41.0671' W; running southerly to the south shore to a point 34° 47.8027' N - 76° 41.0605' W;
    - (v) Oyster Creek - north of a line beginning on the west shore at a point 34° 46.6610' N - 76° 42.5011' W; running easterly to the east shore to a point 34° 46.7161' N - 76° 42.3481' W;
    - (vi) Harlow Creek - north of a line beginning on the west shore at a point 34° 46.7138' N - 76° 43.4838' W; running northeasterly to the east shore to a point 34° 46.8490' N - 76° 43.3296' W;
    - (vii) Calico Creek - west of a line beginning on the north shore at a point 34° 43.7318' N - 76° 43.1268' W; running southerly to the south shore to a point 34° 43.6066' N - 76° 43.2040' W; and
    - (viii) Crab Point Bay - northwest of a line beginning on the northeast shore at a point 34° 44.0615' N - 76° 42.9393' W; running southwesterly to the southwest shore to a point 34° 43.9328' N - 76° 43.0721' W;

- (12) Bogue Sound - Bogue Inlet Area:
- (a) Gales Creek - north of the Highway 24 Bridge;
  - (b) Broad Creek - north of the Highway 24 Bridge;
  - (c) Sanders Creek - north of a line beginning at a point  $34^{\circ} 42.4694' N - 76^{\circ} 58.3754' W$  on the west shore; running easterly to a point  $34^{\circ} 42.4903' N - 76^{\circ} 58.1434' W$  on the east shore;
  - (d) Goose Creek - north of a line beginning on the west shore at a point  $34^{\circ} 41.8183' N - 77^{\circ} 00.7208' W$ ; running easterly to the east shore to a point  $34^{\circ} 41.8600' N - 77^{\circ} 00.5108' W$ ;
  - (e) Archer Creek - west of a line beginning on the north shore at a point  $34^{\circ} 40.4721' N - 77^{\circ} 00.7577' W$ ; running southerly to the south shore to a point  $34^{\circ} 40.3521' N - 77^{\circ} 00.8008' W$ ;
  - (f) White Oak River - northwest of a line beginning on the northeast shore at a point  $34^{\circ} 45.6730' N - 77^{\circ} 07.5960' W$ ; running southwesterly to the southwest shore to a point  $34^{\circ} 45.2890' N - 77^{\circ} 07.7500' W$ ;
    - (i) Pettiford Creek - east of a line beginning on the north shore at a point  $34^{\circ} 42.8670' N - 77^{\circ} 05.3990' W$ ; running southerly to the south shore to a point  $34^{\circ} 42.6310' N - 77^{\circ} 05.3180' W$ ; and
    - (ii) Holland Mill Creek - west of a line beginning on the north shore at a point  $34^{\circ} 43.8390' N - 77^{\circ} 08.0090' W$ ; running southeasterly to the south shore to a point  $34^{\circ} 43.4800' N - 77^{\circ} 07.7650' W$ ;
  - (g) Hawkins Creek - west of a line beginning on the north shore at a point  $34^{\circ} 41.1210' N - 77^{\circ} 07.5720' W$ ; running southerly to the south shore to a point  $34^{\circ} 41.0460' N - 77^{\circ} 07.5930' W$ ;
  - (h) Queen's Creek - north of state road number 1509 bridge:
    - (i) Dick's Creek - west of a line beginning on the north shore at a point  $34^{\circ} 39.9790' N - 77^{\circ} 09.3470' W$ ; running southeasterly to the south shore to a point  $34^{\circ} 39.9350' N - 77^{\circ} 09.3280' W$ ;
    - (ii) Parrot Swamp - west of a line beginning on the north shore at a point  $34^{\circ} 40.6170' N - 77^{\circ} 09.7820' W$ ; running southeasterly to the south shore to a point  $34^{\circ} 40.3660' N - 77^{\circ} 09.5980' W$ ; and
    - (iii) Hall's Creek - east of a line beginning on the north shore at a point  $34^{\circ} 41.0740' N - 77^{\circ} 09.8640' W$ ; running easterly to the south shore to a point  $34^{\circ} 41.0300' N - 77^{\circ} 09.6740' W$ ; and
  - (i) Bear Creek - west of a line beginning at Willis Landing at a point  $34^{\circ} 38.7090' N - 77^{\circ} 12.6860' W$ ; running southeasterly to the south shore to a point  $34^{\circ} 38.4740' N - 77^{\circ} 12.3810' W$ ;
- (13) New River Area:
- (a) Salliers Bay area - all waters north and northwest of the IWW beginning at a point on the shoreline  $34^{\circ} 37.0788' N - 77^{\circ} 12.5350' W$ ; running easterly to a point near Beacon "58" at a point  $34^{\circ} 37.9670' N - 77^{\circ} 12.3060' W$ ; running along the IWW near Cedar Point to a point  $34^{\circ} 33.1860' N - 77^{\circ} 20.4370' W$ ; running northerly to a point on the shoreline  $34^{\circ} 33.1063' N - 77^{\circ} 20.4679' W$ ; following the shoreline to the point of origin; including Howard Bay, Mile Hammock Bay, Salliers Bay, and Freeman Creek;
  - (b) New River Inlet area (including Hellgate Creek and Ward's Channel) - all waters south of the IWW from a point on the shoreline  $34^{\circ} 33.0486' N - 77^{\circ} 18.6295' W$ ; running northwesterly to a point near Beacon "65"  $34^{\circ} 33.0550' N - 77^{\circ} 18.6380' W$ ; running along the IWW to a point near Beacon "15"  $34^{\circ} 31.0630' N - 77^{\circ} 22.2630' W$ ; running southerly to a point on the shoreline  $34^{\circ} 30.9212' N - 77^{\circ} 22.2257' W$ ; following the shoreline across New River Inlet at the COLREGS demarcation line back to the point of origin excluding the marked New River Inlet Channel;
  - (c) New River:
    - (i) Trap's Bay - northeast of a line beginning on the west shore at a point  $34^{\circ} 34.0910' N - 77^{\circ} 21.0010' W$ ; running southeasterly to the east shore to a point  $34^{\circ} 33.8260' N - 77^{\circ} 20.4060' W$ ;
    - (ii) Courthouse Bay:
      - (A) Tributary of Courthouse Bay - southeast of a line beginning on Harvey's Point at a point  $34^{\circ} 35.0050' N - 77^{\circ} 22.3910' W$ ; running northeasterly to the east shore to a point  $34^{\circ} 35.0830' N - 77^{\circ} 22.1890' W$ ;
      - (B) Tributary of Courthouse Bay - northwest of a line beginning on the west shore at a point  $34^{\circ} 35.0970' N - 77^{\circ} 22.6010' W$ ; running northeasterly to the east shore to a point  $34^{\circ} 35.1630' N - 77^{\circ} 22.5030' W$ ; and
      - (C) Rufus Creek - east of a line beginning at a point on the north shore  $34^{\circ} 34.4630' N - 77^{\circ} 21.6410' W$ ; running southerly to a point near Wilken's Bluff  $34^{\circ} 34.3140' N - 77^{\circ} 21.6620' W$ ;

- (iii) Wheeler Creek - south of a line beginning on the west shore at a point 34° 34.0570' N - 77° 23.3640' W; running easterly to a point near Poverty Point 34° 34.1060' N - 77° 23.2440' W;
- (iv) Fannie Creek - south of a line beginning on the west shore at a point 34° 34.1470' N - 77° 23.6390' W; running easterly to the east shore to a point 34° 34.1300' N - 77° 23.5600' W;
- (v) Snead's Creek - northwest of a line beginning on the west shore at a point 34° 35.2850' N - 77° 23.5500' W; running northerly to the east shore to a point 34° 35.3440' N - 77° 23.4860' W;
- (vi) Everette Creek - south of a line beginning on the west shore at a point 34° 34.2570' N - 77° 24.8480' W; running easterly to the east shore to a point 34° 34.2380' N - 77° 24.6970' W;
- (vii) Stone's Creek - southwest of a line beginning on the northwest shore at a point 34° 36.6170' N - 77° 26.8670' W; running southeasterly to the southeast shore to a point 34° 36.5670' N - 77° 26.8500' W;
- (viii) Muddy Creek - north of a line beginning on the west shore 34° 36.8670' N - 77° 26.6340' W; running easterly to the east shore to a point 34° 36.8670' N - 77° 26.6170' W;
- (ix) Mill Creek - north of a line beginning on the west shore at a point 34° 37.2350' N - 77° 25.7000' W; running easterly to the east shore to a point 34° 37.2360' N - 77° 25.6890' W;
- (x) Whitehurst Creek - west of a line beginning on the north shore at a point 34° 38.0780' N - 77° 22.6110' W; running easterly to the south shore to a point 34° 38.0720' N - 77° 22.6000' W;
- (xi) Town Creek - west of a line beginning on the north shore at a point 34° 39.6060' N - 77° 23.0690' W; running southerly to the south shore to a point 34° 39.5950' N - 77° 23.0830' W;
- (xii) Lewis Creek - southwest of a line beginning on the northwest shore at a point 34° 40.9330' N - 77° 24.5290' W; running southeasterly to the southeast shore to a point 34° 40.9190' N - 77° 24.5040' W;
- (xiii) Northeast Creek - east of a line beginning at the mouth of Scale's Creek at a point 34° 43.7350' N - 77° 24.1190' W; running southeasterly to the south shore to a point 34° 43.3950' N - 77° 23.5450' W;
- (xiv) Southwest Creek - southwest of a line beginning on the north shore at a point 34° 41.8500' N - 77° 25.6460' W; running southeasterly to the south shore to a point 34° 41.5540' N - 77° 25.2250' W; and
- (xv) Upper New River - north of a line beginning on the west shore at a point 34° 42.9770' N - 77° 25.9070' W; running easterly through a point near Beacon "53" to a point 34° 43.2600' N - 77° 25.3800' W; to the east shore to a point 34° 43.4260' N - 77° 25.0700' W; and
- (d) Chadwick Bay - all waters bounded by a line beginning on Roses Point at a point 34° 32.2240' N - 77° 22.2880' W; running easterly to a point near Marker "6" at 34° 32.4180' N - 77° 21.6080' W; then following the IWW to a point near Marker "14" at 34° 31.3220' N - 77° 22.1520' W; following the shoreline of Chadwick Bay back to the point of origin;
  - (i) Fullard Creek (including Charles Creek) - northwest of a line beginning on the north shore at a point 34° 32.2210' N - 77° 22.8080' W; running southeasterly to the south shore to a point 34° 32.0340' N - 77° 22.7160' W; and
  - (ii) Bump's Creek - north of a line beginning on the west shore at a point 34° 32.3430' N - 77° 22.4570' W; running northeasterly to the east shore to a point 34° 32.4400' N - 77° 22.3830' W;
- (14) Stump Sound Area - Stump Sound - all waters north of the IWW from a point on the shoreline 34° 31.1228' N - 77° 22.3181' W; running southerly to a point across the IWW from Beacon "15" 34° 31.1040' N - 77° 22.2960' W; running along the IWW to a point near Marker "78" 34° 25.4050' N - 77° 34.2120' W; running northerly to a point on the shoreline 34° 24.5183' N - 77° 34.9833' W; running along the shoreline to the point of origin; except 100 feet north of the IWW from a point across from Beacon "49" 34° 28.1330' N - 77° 30.5170' W to a point near Marker "78" 34° 25.4050' N - 77° 34.2120' W. All waters south of IWW from a point on the shoreline 34° 31.0550' N - 77° 22.2574' W; running northerly to a point near Beacon "15" at 34° 31.0630' N - 77° 22.2630' W; running along the IWW to a point across the IWW from Marker "78" 34° 25.3110' N - 77° 34.1710' W; running southeasterly to a point on the shoreline 34° 23.9817' N - 77° 35.0367' W; running along the shoreline to the point of origin; except 100

feet on the south side of the IWW from a point near Beacon "49" 34° 28.0820' N - 77° 30.4600' W at Morris Landing to a point across the IWW from Marker "78" 34° 25.3110' N - 77° 34.1710' W and except the dredged canals at Old Settler's Beach and the dredged channel from the IWW north of Marker "57" to the Old Settler's Beach Canals;

(15) Topsail Sound Area:

- (a) Virginia Creek - all waters northwest of a line beginning on the southwest shore near the mouth at a point 34° 24.8030' N - 77° 35.5960' W; running northeasterly to a point 34° 25.0333' N - 77° 35.3167' W; running easterly to intersect the nursery area line near Becky's Creek at a point 34° 25.4050' N - 77° 34.2120' W, with the exception of the natural channel as marked by the North Carolina Division of Marine Fisheries;
- (b) Old Topsail Creek - all waters northwest of a line beginning on the northeast shore at a point 34° 21.7740' N - 77° 40.3870' W; running southwesterly to the southwest shore to a point 34° 21.4930' N - 77° 40.6900' W, with the exception of the dredged channel as marked by the North Carolina Division of Marine Fisheries;
- (c) Topsail Sound - all waters enclosed within a line starting near Beacon "BC" at a point 34° 24.6110' N - 77° 35.7050' W; then bounded on the northeast and southeast by Bank's Channel, on the southwest by Marker "98" channel and on the northeast by the IWW; then back to the point of origin; and
- (d) Mallard Bay Area - all waters northwest of the IWW beginning at a point on the shoreline 34° 24.0278' N - 77° 36.8498' W; running southerly to a point 34° 24.0167' N - 77° 36.7333' W near Beacon "93"; running southwesterly to a point 34° 23.8167' N - 77° 36.9667' W; running southwesterly along the marsh line to a point on the shoreline 34° 22.6168' N - 77° 38.8580' W near Beacon "96"; running along the shoreline to the point of origin;

(16) Middle Sound Area:

- (a) Howard Channel and Long Point Channel area - all waters southeast of the IWW beginning at a point on the shoreline 34° 20.4514' N - 77° 40.0183' W; running along the shorelines of Topsail Inlet Channel and Marker # 98 Channel to a point near Beacon "98" 34° 21.5670' N - 77° 40.4580' W; running along the IWW to a point on the north side of the Figure 8 Island Marina Channel to a point 34° 16.5120' N - 77° 45.4870' W; following the shoreline of Figure 8 Island Marina Channel to a point 34° 16.2628' N - 77° 44.7855' W; following the shoreline across Rich Inlet at the COLREGS demarcation line to the point of origin. [with the exception of Howard Channel from the IWW to New Topsail Inlet, Green Channel from Marker "105" to Rich's Inlet, Butler's Creek (Utley's Channel) from the IWW to Nixon's Channel, and Nixon's Channel from IWW to Rich's Inlet;]
- (b) Futch Creek - northwest of a line beginning on the north shore at Baldeagle Point at a point 34° 17.9900' N - 77° 44.4930' W; running southerly to Porter's Neck to a point 34° 18.1170' N - 77° 44.3760' W;
- (c) Page's Creek - northwest of a line beginning on the north shore at a point 34° 16.7420' N - 77° 46.6940' W; running southwesterly to the south shore to a point 34° 16.6910' N - 77° 46.8510' W; and
- (d) All waters bounded on the north by the Figure Eight Island Causeway, on the east by Mason's Channel, on the south by Mason's Inlet Channel and on the west by the Intracoastal Waterway, with the exception of Mason's Channel;

(17) Greenville Sound Area:

- (a) Shell Island area - all waters bounded on the north by Mason's Inlet Channel, on the west by the IWW, on the south by Old Moores Inlet Channel and on the east by Wrightsville Beach;
- (b) Howe Creek (Moore's Creek) - northwest of a line beginning on the north shore at a point 34° 14.9060' N - 77° 47.2180' W; running southwesterly to the south shore to a point 34° 14.8470' N - 77° 47.3810' W;
- (c) Bradley Creek - all waters west of a line beginning on the north side of the Highway 17, 74 and 76 Bridge at a point 34° 12.9700' N - 77° 50.0260' W; running southerly to the south side of the bridge at a point 34° 12.8620' N - 77° 50.0550' W; and
- (d) Wrightsville Beach area - all waters in an area enclosed by a line beginning across the IWW from the mouth of Bradley Creek at a point 34° 12.3530' N - 77° 49.1250' W; running easterly to a point (near the Borrow Pit) 34° 12.3820' N - 77° 48.6610' W; then bounded by Bank's Channel on the east, Shinn Creek on the south and the IWW on the west, back to point of origin;

(18) Masonboro Sound Area:

- (a) Masonboro - Myrtle Grove Sound area (west side) - all waters west and northwest of the IWW beginning at a point on the shoreline 34° 12.7423' N - 77° 49.8391' W; running southeasterly to a point at the mouth of Bradley Creek at a point 34° 12.4130' N - 77° 49.2110' W; running

- along the west side of the IWW to a point opposite Beacon "161" at 34° 03.5590' N - 77° 53.4550' W; running westerly to a point on the shoreline 34° 03.5715' N - 77° 53.4979' W; running along the shoreline back to the point of origin; and
- (b) Masonboro - Myrtle Grove Sound area (east side) - all waters south and southeast of a line beginning on the north end of Masonboro Island at a point 34° 10.9130' N - 77° 48.9550' W; running northwesterly to a point near the intersection of Shinn Creek and the IWW 34° 11.3840' N - 77° 49.5240' W; running along the east side of the IWW to a point near Marker "161" 34° 03.5270' N - 77° 53.3550' W; running southerly to a point on the shoreline 34° 03.3917' N - 77° 53.0423' W; running along the shoreline across Carolina Beach Inlet at the COLREGS demarcation line back to the point of origin (with the exception of Old Masonboro Channel and Carolina Beach Inlet Channel);
- (19) Cape Fear River Area:
- (a) Cape Fear River - all waters north of a line beginning on the west shore at a point 34° 10.4410' N - 77° 57.7400' W; running easterly through Beacon "59" to the east shore to a point 34° 10.4050' N - 77° 57.1310' W; with the exception of the maintained channel, and all waters north of a line beginning on the west shore at a point 34° 04.6040' N - 77° 56.4780' W; running easterly through Beacon "41" to the east shore to a point 34° 04.7920' N - 77° 55.4740' W; with the exception of 300 yards east and west of the main shipping channel up to Beacon "59" (mouth of Brunswick River);
- (b) The Basin (Ft. Fisher area) - east of a line beginning on the north shore at a point 33° 57.2950' N - 77° 56.1450' W; running southeasterly to the south shore to a point 33° 57.1120' N - 77° 56.2060' W;
- (c) Walden Creek - all waters northwest of a line beginning on the north side of county road No. 1528 bridge at a point 33° 58.2950' N - 77° 59.0280' W; running southerly to the south side of the bridge at a point 33° 58.2250' N - 77° 59.0440' W;
- (d) Baldhead Island Creeks:
- (i) Baldhead Creek - southeast of a line beginning on the north shore at a point 33° 51.7680' N - 77° 59.1700' W; running westerly to the south shore to a point 33° 51.7590' N - 77° 59.1850' W;
- (ii) Cape Creek - southeast of a line beginning on the north shore at a point 33° 51.9740' N - 77° 58.3090' W; running southwesterly to the south shore to a point 33° 51.9480' N - 77° 58.3480' W;
- (iii) Bluff Island Creek (East Beach Creek) - south of a line beginning on the west shore at a point 33° 52.6740' N - 77° 58.1530' W; running easterly to the east shore to a point 33° 52.6850' N - 77° 58.0780' W; and
- (iv) Deep Creek - south of a line on the west shore at a point 33° 52.6850' N - 77° 58.0780' W; running northeasterly to the east shore to a point 33° 52.7690' N - 77° 58.0110' W;
- (e) Dutchman Creek - north of a line beginning on the west shore at a point 33° 55.1560' N - 78° 02.7260' W; running southeasterly to the east shore to a point 33° 55.1130' N - 78° 02.5990' W;
- (f) Denis Creek - west of a line beginning on the north shore at a point 33° 55.0410' N - 78° 03.5180' W; running southerly to the south shore to a point 33° 55.0120' N - 78° 03.5110' W;
- (g) Piney Point Creek - west of a line beginning on the north shore at a point 33° 54.6310' N - 78° 03.5020' W; running southerly to the south shore to a point 33° 54.6040' N - 78° 03.5010' W;
- (h) Molasses, Coward and Smokehouse creeks - all waters bounded by the IWW and the Elizabeth River on the north and east, the Oak Island Coast Guard canal on the east, Oak Island on the south and the CP and L Discharge canal on the west; and
- (i) Oak Island area - all waters north of the IWW from a point on the shoreline 33° 55.2827' N - 78° 03.7681' W; running southerly to a point across the IWW from Marker # 9 33° 55.2610' N - 78° 03.7630' W; running along the IWW to a point near Beacon "18" 33° 55.7410' N - 78° 10.2760' W; running northerly to a point on the shoreline 33° 55.7718' N - 78° 10.2744' W; running along the shoreline back to the point of origin; all waters south of the IWW from a point near Marker "9" 33° 55.2060' N - 78° 03.7580' W; running along the IWW to a point across the IWW from Beacon "18" 33° 55.7199' N - 78° 10.2764' W; running southerly to a point on the shoreline 33° 55.6898' N - 78° 10.2775' W; running along the shoreline back to the point of origin;
- (20) Lockwoods Folly Inlet Area:
- (a) Davis Creek and Davis Canal - east of a line beginning on the north shore at a point 33° 55.2280' N - 78° 10.8610' W; running southerly to the south shore to a point 33° 55.1970' N - 78° 10.8390' W;

- (b) Lockwoods Folly River - north of a line beginning on the west shore at a point 33° 56.3880' N - 78° 13.2360' W; running easterly to the east shore to a point 33° 56.6560' N - 78° 12.8350' W; and
  - (c) Spring Creek (Galloway Flats area) - all waters northwest of a line beginning on the north shore at a point 33° 55.7350' N - 78° 13.7090' W; running southwesterly to the south shore to a point 33° 55.5590' N - 78° 13.7960' W;
- (21) Shallotte Inlet Area:
- (a) Shallotte River - north of a line beginning on Bill Holden's Landing at a point 33° 55.8840' N - 78° 22.0710' W; running northeasterly to Gibbins Point to a point 33° 56.3190' N - 78° 21.8740' W;
  - (b) Shallotte River (Ocean Flats) - excluding Gibbs Creek, the area enclosed by a line beginning at Long Point 33° 54.6210' N - 78° 21.7960' W; then bounded on the south by the IWW, the west by Shallotte River, the north by Gibb's Creek and the east by the shoreline of the Shallotte River back to the point of origin;
  - (c) Shallotte Creek (Little Shallotte River) - east of a line beginning on Shell Landing at a point 33° 55.7390' N - 78° 21.6410' W; running southerly to Boone's Neck Point to a point 33° 55.5990' N - 78° 21.5480' W;
  - (d) Saucepan Creek - northwest of a line beginning on the west shore at a point 33° 54.7007' N - 78° 23.4183' W; running northerly to the east shore (mouth of Old Mill Creek) to a point 33° 54.9140' N - 78° 23.4370' W; and
  - (e) Old Channel area - all waters south of the IWW from a point near Beacon "83" 33° 54.2890' N - 78° 23.1930' W; running along the IWW to a point near Ocean Isle Beach Bridge 33° 53.7270' N - 78° 26.3760' W; running southerly to a point on the shoreline 33° 53.7082' N - 78° 26.3732' W; running southerly along the shoreline to a point on the shoreline 33° 53.3827' N - 78° 26.2118' W; running along the shoreline to the point of origin; except the dredged finger canals at Ocean Isle Beach located on the south side of the IWW between the Ocean Isle Beach Bridge and IWW Marker "89"; and
- (22) Little River Inlet Area:
- (a) Gause Landing area - all waters north of the IWW from a point on the shoreline 33° 53.9053' N - 78° 25.6064' W; running southerly to a point near Beacon "90" 33° 53.8790' N - 78° 25.5950' W; then following the IWW to a point at the intersection of the IWW and the South Carolina line; 33° 52.0003' N - 78° 33.5633' W; running northerly along the South Carolina line to a point on the shoreline 33° 52.0290' N - 78° 33.5893' W; running along the shoreline to the point of origin;
  - (b) Eastern Channel Area - all waters bounded on the east and south by Eastern Channel, on the west by Jink's Creek and on the north by the IWW;
  - (c) The Big Narrows Area:
    - (i) Big Teague Creek - west of a line beginning on the north shore at a point 33° 52.8260' N - 78° 30.0110' W; running southerly to the south shore to a point 33° 52.8040' N - 78° 29.9940' W;
    - (ii) Little Teague Creek - west of a line beginning on the north shore at a point 33° 52.9280' N - 78° 30.1500' W; running southeasterly to the south shore to a point 33° 52.9130' N - 78° 30.1220' W; and
    - (iii) Big Norge Creek - south of a line beginning on the west shore at a point 33° 52.8550' N - 78° 30.6190' W; running easterly to the east shore to a point 33° 52.8620' N - 78° 30.5900' W;
  - (d) Mad Inlet area - all waters south of the IWW from a point on the shoreline 33° 52.3121' N - 78° 30.4990' W; running northerly to a point near the Sunset Beach Bridge 33° 52.8450' N - 78° 30.6510' W; then following the IWW to a point at the intersection of the IWW and the South Carolina line 33° 51.9888' N - 78° 33.5458' W; running southeasterly along the South Carolina line to a point on the shoreline; running along the shoreline across Mad Inlet at the COLREGS demarcation line to the point of origin; with the exception of Bonaparte Creek; and
  - (e) Calabash River - all waters east of a line beginning at a point on the north side of state road No. 1164 bridge at a point 33° 53.3850' N - 78° 32.9710' W; running southerly to the south side of the bridge at a point 33° 53.3580' N - 78° 32.9750' W.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
 Eff. January 1, 1991;  
 Amended Eff. March 1, 1996; September 1, 1991;  
 Recodified from 15A NCAC 03R .0003 Eff. December 17, 1996;

*Amended Eff. May 1, 2017; April 1, 2011; December 1, 2006; September 1, 2005; August 1, 2004; May 1, 1997;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **15A NCAC 03R .0104 PERMANENT SECONDARY NURSERY AREAS**

The permanent secondary nursery areas referenced in 15A NCAC 03N .0105(a) are delineated in the following coastal water areas:

- (1) Roanoke Sound:
  - Inner Shallowbag Bay - west of a line beginning on the northeast shore at a point 35° 54.6729' N - 75° 39.8099' W; running southerly to the southeast shore to a point 35° 54.1722' N - 75° 39.6806' W;
- (2) In the Pamlico Long Sound Area:
  - (a) Long Shoal River - north of a line beginning at the 5th Avenue Canal at a point 35° 35.2120' N - 75° 53.2232' W; running easterly to the east shore on Pains Point to a point 35° 35.0666' N - 75° 51.2000' W;
  - (b) Pains Bay - east of a line beginning on Pains Point at a point 35° 35.0666' N - 75° 51.2000' W; running southerly to Rawls Island to a point 35° 34.4666' N - 75° 50.9666' W; running easterly to the east shore to a point 35° 34.2309' N - 75° 50.2695' W;
  - (c) Wysocking Bay - northwest of a line beginning at Benson Point at a point 35° 22.9684' N - 76° 03.7129' W; running northeasterly to Long Point to a point 35° 24.6895' N - 76° 01.3155' W;
  - (d) Juniper Bay-Cunning Harbor - north of a line beginning on the west shore of Juniper Bay at a point 35° 20.6217' N - 76° 15.5447' W; running easterly to a point 35° 20.4372' N - 76° 13.2697' W; running easterly to the east shore of Cunning Harbor to a point 35° 20.3413' N - 76° 12.3378' W;
  - (e) Swanquarter Bay - north of a line beginning at The Narrows at a point 35° 20.9500' N - 76° 20.6409' W; running easterly to the east shore to a point 35° 21.5959' N - 76° 18.3580' W;
  - (f) Deep Cove - The Narrows - north and east of a line beginning on the west shore at a point 35° 20.9790' N - 76° 23.8577' W; running southeasterly to Swanquarter Island to a point 35° 20.5321' N - 76° 22.7869' W; and west of a line at The Narrows beginning on the north shore to a point 35° 20.9500' N - 76° 20.6409' W; running southerly to Swanquarter Island to a point 35° 20.7025' N - 76° 20.5620' W;
  - (g) Rose Bay - north of a line beginning on Long Point at a point 35° 23.3404' N - 76° 26.2491' W; running southeasterly to Drum Point to a point 35° 22.4891' N - 76° 25.2012' W;
  - (h) Spencer Bay - northwest of a line beginning on Roos Point at a point 35° 22.3866' N - 76° 27.9225' W; running northeasterly to Long Point to a point 35° 23.3404' N - 76° 26.2491' W;
  - (i) Abel Bay - northeast of a line beginning on the west shore at a point 35° 23.6463' N - 76° 31.0003' W; running southeasterly to the east shore to a point 35° 22.9353' N - 76° 29.7215' W;
  - (j) Mouse Harbor - west of a line beginning on Persimmon Tree Point at a point 35° 18.3915' N - 76° 29.0454' W; running southerly to Yaupon Hammock Point to a point 35° 17.1825' N - 76° 28.8713' W;
  - (k) Big Porpoise Bay - northwest of a line beginning on Big Porpoise Point at a point 35° 15.6993' N - 76° 28.2041' W; running southwesterly to Middle Bay Point to a point 35° 14.9276' N - 76° 28.8658' W;
  - (l) Middle Bay - west of a line beginning on Deep Point at a point 35° 14.8003' N - 76° 29.1923' W; running southerly to Little Fishing Point to a point 35° 13.5419' N - 76° 29.6123' W;
  - (m) Jones Bay - west of a line beginning on Mink Trap Point at a point 35° 13.4968' N - 76° 31.1040' W; running southerly to Boar Point to a point 35° 12.3253' N - 76° 31.2767' W; and
  - (n) In the Bay River Area:
    - (i) Bonner Bay - southeast of a line beginning on the west shore at a point 35° 09.6281' N - 76° 36.2185' W; running northeasterly to Davis Island Point to a point 35° 10.0888' N - 76° 35.2587' W; and
    - (ii) Gales Creek-Bear Creek - north and west of a line beginning on Sanders Point at a point 35° 11.2833' N - 76° 35.9000' W; running northeasterly to the east shore to a point 35° 11.9000' N - 76° 34.2833' W;
- (3) In the Pamlico and Pungo Rivers Area:
  - (a) Pungo River - north of a line beginning on the west shore at a point 35° 32.2000' N - 76° 29.2500' W; running east near Beacon "21" to the east shore to a point 35° 32.0833' N - 76° 28.1500' W;

- (b) Fortescue Creek - east of a line beginning on Pasture Point at a point 35° 25.9213' N - 76° 31.9135' W; running southerly to the Lupton Point shore to a point 35° 25.6012' N - 76° 31.9641' W;
  - (c) Pamlico River - west of a line beginning on Ragged Point at a point 35° 27.5768' N - 76° 54.3612' W; running southwesterly to Mauls Point to a point 35° 26.9176' N - 76° 55.5253' W;
  - (d) North Creek - north of a line beginning on the west shore at a point 35° 25.3988' N - 76° 40.0455' W; running southeasterly to the east shore to a point 35° 25.1384' N - 76° 39.6712' W;
  - (e) In the Goose Creek Area, Campbell Creek - west of a line beginning on the north shore at a point 35° 17.3600' N - 76° 37.1096' W; running southerly to the south shore to a point 35° 16.9876' N - 76° 37.0965' W; and
  - (f) Oyster Creek-Middle Prong - southwest of a line beginning on Pine Hammock at a point 35° 19.5586' N - 76° 32.8830' W; running easterly to Cedar Island to a point 35° 19.5490' N - 76° 32.7365' W; and southwest of a line beginning on Cedar Island at a point 35° 19.4921' N - 76° 32.2590' W; running southeasterly to Beard Island Point to a point 35° 19.1265' N - 76° 31.7226' W;
- (4) In the Neuse River Area:
- (a) Lower Broad Creek - west of a line beginning on the north shore at a point 35° 05.8314' N - 76° 35.3845' W; running southwesterly to the south shore to a point 35° 05.5505' N - 76° 35.7249' W;
  - (b) Greens Creek - north of a line beginning on the west shore of Greens Creek at a point 35° 01.3476' N - 76° 42.1740' W; running northeasterly to the east shore to a point 35° 01.4899' N - 76° 41.9961' W;
  - (c) Dawson Creek - north of a line beginning on the west shore at a point 34° 59.5920' N - 76° 45.4620' W; running southeasterly to the east shore to a point 34° 59.5800' N - 76° 45.4140' W;
  - (d) Goose Creek - north and east of a line beginning at a point on the west shore at a point 35° 02.6642' N - 76° 56.4710' W; running southeasterly to a point on Cooper Point 35° 02.0908' N - 76° 56.0092' W;
  - (e) Upper Broad Creek - northeast of a line beginning at a point on Rowland Point on the north shore at a point 35° 02.6166' N - 76° 56.4500' W; running southeasterly to the south shore to a point 35° 02.8960' N - 76° 56.7865' W;
  - (f) Clubfoot Creek - south of a line beginning on the west shore at a point 34° 54.5424' N - 76° 45.7252' W; running easterly to the east shore to a point 34° 54.4853' N - 76° 45.4022' W; and
  - (g) In the Adams Creek Area, Cedar Creek - east of a line beginning on the north shore at a point 34° 56.1203' N - 76° 38.7988' W; running southerly to the south shore to a point 34° 55.8745' N - 76° 38.8153' W;
- (5) Virginia Creek - all waters of the natural channel northwest of the primary nursery area line;
  - (6) Old Topsail Creek - all waters of the dredged channel northwest of the primary nursery area line;
  - (7) Mill Creek - all waters west of a line beginning on the north shore at a point 34° 20.6420' N - 77° 42.1220' W; running southwesterly to the south shore to a point 34° 20.3360' N - 77° 42.2400' W;
  - (8) Pages Creek - all waters west of a line beginning on the north shore at a point 34° 16.1610' N - 77° 45.9930' W; running southwesterly to the south shore to a point 34° 15.9430' N - 77° 46.1670' W;
  - (9) Bradley Creek - all waters west of a line beginning on the north shore at a point 34° 12.7030' N - 77° 49.1230' W; running southerly near the dredged channel to a point 34° 12.4130' N - 77° 49.2110' W; and
  - (10) Davis Creek - all waters east of a line beginning on Horse Island at a point 33° 55.0160' N - 78° 12.7380' W; running southerly to Oak Island to a point 33° 54.9190' N - 78° 12.7170' W; continuing upstream to the primary nursery line and Davis Canal, all waters southeast of a line beginning on Pinner Point at a point 33° 55.2930' N - 78° 11.6390' W; running southwesterly across the mouth of Davis Canal to the spoil island at the southwest intersection of the IWW and Davis Canal to a point 33° 55.2690' N - 78° 11.6550' W.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; Eff. January 1, 1991; Amended Eff. March 1, 1996; March 1, 1994; Recodified from 15A NCAC 3R .0004 Eff. December 17, 1996; Amended Eff. April 1, 2011; August 1, 2004; May 1, 1997; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**15A NCAC 03R .0105 SPECIAL SECONDARY NURSERY AREAS**

The special secondary nursery areas referenced in 15A NCAC 03N .0105(b) are designated in the following coastal water areas:

- (1) Roanoke Sound:
  - (a) Outer Shallowbag Bay - west of a line beginning on Baum Point at a point 35° 55.1461' N - 75° 39.5618' W; running southeasterly to Ballast Point to a point 35° 54.6250' N - 75° 38.8656' W; including the canal on the southeast shore of Shallowbag Bay; and
  - (b) Kitty Hawk Bay/Buzzard Bay - within the area designated by a line beginning at a point on the east shore of Collington Creek at a point 36° 02.4360' N - 75° 42.3189' W; running westerly to a point 36° 02.6630' N - 75° 41.4102' W; running along the shoreline to a point 36° 02.3264' N - 75° 42.3889' W; running southwesterly to a point 36° 02.1483' N - 75° 42.4329' W; running along the shoreline to a point 36° 01.6736' N - 75° 42.5313' W; running southwesterly to a point 36° 01.5704' N - 75° 42.5899' W; running along the shoreline to a point 36° 00.9162' N - 75° 42.2035' W; running southeasterly to a point 36° 00.8253' N - 75° 42.0886' W; running along the shoreline to a point 35° 59.9886' N - 75° 41.7284' W; running southwesterly to a point 35° 59.9597' N - 75° 41.7682' W; running along the shoreline to the mouth of Buzzard Bay to a point 35° 59.6480' N - 75° 32.9906' W; running easterly to Mann Point to a point 35° 59.4171' N - 75° 32.7361' W; running northerly along the shoreline to the point of beginning;
- (2) In the Pamlico and Pungo rivers Area:
  - (a) Pungo Creek - west of a line beginning on Persimmon Tree Point at a point 35° 30.7633' N - 76° 38.2831' W; running southwesterly to Windmill Point to a point 35° 31.1546' N - 76° 37.7590' W;
  - (b) Scranton Creek - south and east of a line beginning on the west shore at a point 35° 30.6810' N - 76° 28.3435' W; running easterly to the east shore to a point 35° 30.7075' N - 76° 28.6766' W;
  - (c) Slade Creek - east of a line beginning on the west shore at a point 35° 27.8879' N - 76° 32.9906' W; running southeasterly to the east shore to a point 35° 27.6510' N - 76° 32.7361' W;
  - (d) South Creek - west of a line beginning on Hickory Point at a point 35° 21.7385' N - 76° 41.5907' W; running southerly to Fork Point to a point 35° 20.7534' N - 76° 41.7870' W; and
  - (e) Bond Creek/Muddy Creek - south of a line beginning on Fork Point 35° 20.7534' N - 76° 41.7870' W; running southeasterly to Gum Point to a point 35° 20.5632' N - 76° 41.4645' W;
- (3) In the West Bay Area:
  - (a) West Thorofare Bay - south of a line beginning on the west shore at a point 34° 57.2199' N - 76° 24.0947' W; running easterly to the east shore to a point 34° 57.4871' N - 76° 23.0737' W;
  - (b) Long Bay-Ditch Bay - west of a line beginning on the north shore of Ditch Bay at a point 34° 57.9388' N - 76° 27.0781' W; running southwesterly to the south shore of Ditch Bay to a point 34° 57.2120' N - 76° 27.2185' W; then south of a line running southeasterly to the east shore of Long Bay to a point 34° 56.7633' N - 76° 26.3927' W; and
  - (c) Turnagain Bay - south of a line beginning on the west shore at a point 34° 59.4065' N - 76° 30.1906' W; running easterly to the east shore to a point 34° 59.5668' N - 76° 29.3557' W;
- (4) In the Core Sound Area:
  - (a) Cedar Island Bay - northwest of a line beginning near the gun club dock at a point 34° 58.7203' N - 76° 15.9645' W; running northeasterly to the south shore to a point 34° 57.7690' N - 76° 16.8781' W;
  - (b) Thorofare Bay-Barry Bay - northwest of a line beginning on Rumley Hammock at a point 34° 55.4853' N - 76° 18.2487' W; running northeasterly to Hall Point to a point 34° 54.4227' N - 76° 19.1908' W;
  - (c) Nelson Bay - northwest of a line beginning on the west shore of Nelson Bay at a point 34° 51.1353' N - 76° 24.5866' W; running northeasterly to Drum Point to a point 34° 51.6417' N - 76° 23.7620' W;
  - (d) Brett Bay - north of a line beginning on the west shore at a point 34° 49.4019' N - 76° 26.0227' W; running easterly to Piney Point to a point 34° 49.5799' N - 76° 25.0534' W; and
  - (e) Jarrett Bay - north of a line beginning on the west shore near Old Chimney at a point 34° 45.5743' N - 76° 30.0076' W; running easterly to a point east of Davis Island 34° 45.8325' N - 76° 28.7955' W;
- (5) In the North River Area:
  - (a) North River - north of a line beginning on the west shore at a point 34° 46.0383' N - 76° 37.0633' W; running easterly to a point on the east shore 34° 46.2667' N - 76° 35.4933' W; and
  - (b) Ward Creek - east of a line beginning on the north shore at a point 34° 46.2667' N - 76° 35.4933' W; running southerly to the south shore to a point 34° 45.4517' N - 76° 35.1767' W;

- (6) Newport River - west of a line beginning near Penn Point on the south shore at a point 34° 45.6960' N - 76° 43.5180' W; running northeasterly to the north shore to a point 34° 46.8490' N - 76° 43.3296' W;
- (7) New River - all waters upstream of a line beginning on the north side of the N.C. Highway 172 Bridge at a point 34° 34.7680' N - 77° 23.9940' W; running southerly to the south side of the bridge at a point 34° 34.6000' N - 77° 23.9710' W;
- (8) Chadwick Bay - all waters west of a line beginning on the northeast side of Chadwick Bay at a point 34° 32.5630' N - 77° 21.6280' W; running southeasterly to a point near Marker "6" at 34° 32.4180' N - 77° 21.6080' W; running westerly to Roses Point at a point 34° 32.2240' N - 77° 22.2880' W; following the shoreline in Fullard Creek to a point 34° 32.0340' N - 77° 22.7160' W; running northwesterly to a point 34° 32.2210' N - 77° 22.8080' W; following the shoreline to the west point of Bump's Creek at a point 34° 32.3430' N - 77° 22.4570' W; running northeasterly to the east shore to a point 34° 32.4400' N - 77° 22.3830' W; following the shoreline of Chadwick Bay back to the point of origin;
- (9) Intracoastal Waterway - all waters in the IWW maintained channel from a point near Marker "17" north of Alligator Bay 34° 30.7930' N - 77° 23.1290' W; to a point near Marker "49" at Morris Landing at a point 34° 28.0820' N - 77° 30.4710' W; and all waters in the IWW maintained channel and 100 feet on either side from Marker "49" to the N.C. Highway 50-210 Bridge at Surf City;
- (10) Cape Fear River - all waters bounded by a line beginning on the south side of the Spoil Island at the intersection of the IWW and the Cape Fear River ship channel at a point 34° 01.5780' N - 77° 56.0010' W; running easterly to the east shore of the Cape Fear River to a point 34° 01.7230' N - 77° 55.1010' W; running southerly and bounded by the shoreline to the Ferry Slip at Federal Point at a point 33° 57.8080' N - 77° 56.4120' W; running northerly to Bird Island to a point 33° 58.3870' N - 77° 56.5780' W; running northerly along the west shoreline of Bird Island and the Cape Fear River spoil islands back to point of origin;
- (11) Lockwood Folly River - all waters north of a line beginning on Howells Point at a point 33° 55.3680' N - 78° 12.7930' W and running in a westerly direction along the IWW near IWW Marker "46" to a point 33° 55.3650' N - 78° 13.8500' W; and
- (12) Saucepan Creek - all waters north of a line beginning on the west shore at a point 33° 54.6290' N - 78° 22.9170' W; running northeasterly to the east shore to a point 33° 54.6550' N - 78° 22.8670' W.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
 Eff. January 1, 1991;  
 Amended Eff. March 1, 1996; March 1, 1994;  
 Recodified from 15A NCAC 3R .0005 Eff. December 17, 1996;  
 Amended Eff. April 1, 2011; August 1, 2004; May 1, 1997.

#### **15A NCAC 03R .0106 TRAWL NETS PROHIBITED**

The trawl net prohibited areas referenced in 15A NCAC 03J .0104 (b)(4) are delineated in the following coastal water areas:

- (1) In Pamlico, Core and Back sounds - within the area described by a line beginning at a point 35° 43.7457' N - 75° 30.7014' W on the south shore of Eagles Nest Bay on Pea Island; running westerly to a point 35° 42.9500' N - 75° 34.1500' W; running southerly to a point 35° 39.3500' N - 75° 34.4000' W; running southeasterly to a point 35° 35.8931' N - 75° 31.1514' W in Chicamacomico Channel near Beacon "ICC"; running southerly to a point 35° 28.5610' N - 75° 31.5825' W on Gull Island; running southwest to a point 35° 22.8671' N - 75° 33.5851' W in Avon Channel near Beacon "1"; running southwest to a point 35° 18.9603' N - 75° 36.0817' W in Cape Channel near Beacon "2"; running westerly to a point 35° 16.7588' N - 75° 44.2554' W in Rollinson Channel near Beacon "42RC"; running southwest to a point 35° 14.0337' N - 75° 45.9643' W southwest of Oliver Reef near the quick-flashing beacon; running westerly to a point 35° 09.3650' N - 76° 00.6377' W in Big Foot Slough Channel near Beacon "14BF"; running southwest to a point 35° 08.4523' N - 76° 02.6651' W in Nine Foot Shoal Channel near Beacon "9"; running westerly to a point 35° 07.1000' N - 76° 06.9000' W; running southwest to a point 35° 01.4985' N - 76° 11.4353' W near Beacon "HL"; running southwest to a point 35° 00.2728' N - 76° 12.1903' W near Beacon "2CS"; running southerly to a point 34° 59.5027' N - 76° 12.3204' W in Wainwright Channel immediately east of the northern tip of Wainwright Island; running easterly to a point 34° 58.6760' N - 76° 12.4164' W; running southerly to a point 34° 56.6697' N - 76° 13.6052' W near Marker "15"; running southwest to a point 34° 54.1584' N - 76° 16.9016' W; running southwest to a point 34° 52.1484' N - 76° 19.2607' W; running southwest to a point 34° 51.0617' N - 76° 21.0449' W; running southwest to a point 34° 48.3137' N - 76° 24.3717' W; running southwest to a point 34° 46.3739' N - 76° 26.1526' W; running southwest to a point 34° 44.5795' N - 76° 27.5136' W; running southwest to a point 34° 43.4895' N - 76° 28.9411' W near Beacon

- "37A"; running southwesterly to a point 34° 40.4500' N – 76° 30.6833' W; running westerly to a point 34° 40.7061' N – 76° 31.5893' W near Beacon "35" in Back Sound; running westerly to a point 34° 41.3178' N - 76° 33.8092' W near Buoy "3"; running southwesterly to a point 34° 39.6601' N – 76° 34.4078' W on Shackleford Banks; running easterly and northeasterly along the shoreline and across Barden Inlet following the COLREGS Demarcation line; then running northerly along the shoreline across the inlets following the COLREGS Demarcation line up the Outer Banks to Eagles Nest Bay at the point of beginning.
- (2) In Northern Pamlico Sound, Stumpy Point Bay - north of a line beginning at a point 35° 40.9719' N - 75° 44.4213' W on Drain Point; running westerly to a point 35° 40.6550' N - 75° 45.6869' W on Kazer Point;
  - (3) In the Pamlico River area, lower Goose Creek - south of a line beginning at a point 35° 18.2676' N - 76° 37.4706' W on the north shore of Snode Creek; running easterly to a point 35° 18.1660' N - 76° 36.9095' W on Store Point;
  - (4) In the Bay River Area:
    - (a) In Dump Creek - north of a line beginning at a point 35° 11.6666' N - 76° 33.4207' W on the west shore; running southeasterly to a point 35° 11.3926' N - 76° 32.8993' W on the east shore;
    - (b) In Rockhole Bay - north of a line beginning at a point 35° 11.3926' N - 76° 32.8993' W on the west shore; running southeasterly to a point 35° 11.1321' N - 76° 32.1360' W on the east shore;
    - (c) In Vandemere Creek - north of a line beginning at a point 35° 11.2681' N - 76° 39.5220' W on the west shore; running southerly to a point 35° 11.0879' N - 76° 39.3200' W on the east shore;
    - (d) In Cedar Creek - west of a line beginning at a point 35° 11.2681' N - 76° 39.5220' W on the north shore; running southwesterly to a point 35° 11.1033' N - 76° 39.7321' W on the south shore of an unnamed tributary;
    - (e) In Chapel Creek - north of a line beginning at a point 35° 08.6768' N - 76° 42.7985' W on the west shore; running easterly to a point 35° 08.7677' N - 76° 42.3604' W on the east shore;
    - (f) In Upper Bay River - west of a line beginning at a point 35° 08.6704' N - 76° 43.0836' W on the north shore; running southwesterly to a point 35° 08.4590' N - 76° 43.1930' W on the south shore;
  - (5) In the Neuse River Area, Pierce Creek - west of a line beginning at a point 35° 02.4336' N - 76° 39.7653' W on the north shore; running southerly to a point 35° 02.3767' N - 76° 39.7876' W on the south shore;
  - (6) In Cape Lookout Bight, all of Cape Lookout Bight - southwest of the COLREGS Demarcation line at Barden Inlet to the northeastern most point of Power Squadron Spit; running northeasterly to a point 34° 38.6150' N – 76° 32.7434' W on Shackleford Banks;
  - (7) Newport River - all waters upstream of a line beginning at a point 34° 45.6960' N – 76° 43.5180' W near Penn Point; running northeasterly to a point 34° 46.5733' N – 76° 42.6350' W at Hardesty Farms subdivision;
  - (8) White Oak River - all waters upstream of a line beginning at a point on the west side of the river 34° 43.3425' N – 77° 07.2209' W; running northerly to a point 34° 43.6445' N – 77° 07.3177' W in the river above Cahoon's Slough; running easterly to a point 34° 43.5588' N – 77° 06.6206' W at Hancock Point;
  - (9) Intracoastal Waterway - all waters in the maintained channel from a point near Marker #105 34° 18.8167' N – 77° 42.8833' W running southerly to a point at the Wrightsville Beach Drawbridge 34° 12.9500' N – 77° 47.9833' W;
  - (10) Cape Fear River - all waters bounded by a line beginning at a point near Fort Fisher 33° 57.5333' N – 77° 56.9333' W running southwesterly along The Rocks to a point 33° 55.1833' N – 77° 58.0833' W running southeasterly and southerly along the shorelines of Second and Buzzard's Bays to a point 33° 53.0333' N – 57.9333' W running northeastly and northwesterly along the barrier island shorelines of Buzzard's Bay, Second Bay and The Basin back to the point of origin;
  - (11) Cape Creek - all waters upstream of a line beginning at a point on the north shore 33° 53.6167' N – 77° 59.3333' W running southwesterly to a point on the south shore 33° 53.3667' N – 77° 59.4667' W; and
  - (12) Bald Head Creek - all waters upstream of a line beginning at a point on the west shore 33° 52.8667' N – 77° 59.8000' W running easterly to a point on the east shore 33° 52.8667' N – 77° 59.7167' W.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; Eff. January 1, 1991; Amended Eff. March 1, 1994; Recodified from 15A NCAC 3R .0006 Eff. December 17, 1996; Amended Eff. July 1, 2006; August 1, 2004; April 1, 1997; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**15A NCAC 03R .0107 DESIGNATED POT AREAS**

- (a) The pot areas referenced in 15A NCAC 03J .0301(a)(2)(A) are delineated in the following Coastal Fishing Waters:
- (1) In Albemarle and Currituck sounds and tributaries.
  - (2) In Roanoke Sound and tributaries.
  - (3) In Croatan Sound and tributaries.
  - (4) In Pamlico Sound and tributaries, except areas further described in Subparagraphs (a)(5), (a)(7), and (a)(8) of this Rule. Pots shall not be set within the following area described by lines:
    - (A) Striking Bay - beginning on shore at a point 35° 23.7003' N - 76° 26.6951' W; running southeasterly to shore at a point 35° 23.3580' N - 76° 26.3777' W; running easterly along shore to Long Point to a point 35° 23.3380' N - 76° 26.2540' W; running southeasterly to Drum Point to a point 35° 22.4830' N - 76° 25.1930' W; running southerly along shore to Point of Narrows to a point 35° 21.9240' N - 76° 25.4080' W; running northwesterly near Marker "2" to a point 35° 22.4166' N - 76° 26.4833' W; running westerly to a point 35° 22.3833' N - 76° 27.0000' W; running northerly to Short Point to a point 35° 23.3831' N - 76° 26.9922' W; running northerly along shore to a point 35° 23.5000' N - 76° 26.9666' W; running northeasterly to the beginning point.
  - (5) In the Pamlico River and its tributaries west of a line beginning on Willow Point at a point 35° 22.3741' N - 76° 28.6905' W; running southerly to Pamlico Point to a point 35° 18.5882' N - 76° 28.9625' W; pots may be used in Coastal Fishing Waters within an area bound by the shoreline to the depth of six feet. Pots shall not be used in areas listed in Paragraph (b) of this Rule, unless opened to the use of pots by proclamation; and pots shall not be set within the following areas described by lines:
    - (A) Long Point - beginning on shore at a point 35° 22.4833' N - 76° 43.4167' W; running northwesterly to a point 35° 22.6500' N - 76° 43.4333' W; running easterly along the six foot depth to a point 35° 22.7333' N - 76° 42.7333' W; running to shore to a point 35° 22.4000' N - 76° 43.0833' W; running westerly along shore to the beginning point.
    - (B) Pamlico River Mainstream Channel - beginning at a point 250 yards north of Marker "7" at a point 35° 27.2953' N - 76° 55.1351' W; running westerly to a point near Marker "8" at a point 35° 27.4217' N - 76° 56.0917' W; running westerly along the north side of the marked channel to a point 100 yards north of Marker "9" at a point 35° 27.7472' N - 76° 57.5392' W; running westerly along the north side of the marked channel to a point near Marker "16", north of Whichard Beach at a point 35° 30.4750' N - 77° 01.2217' W; running southwestly across the channel to a point 35° 30.4373' N - 77° 01.2614' W; running southeasterly along the south side of the marked channel at a distance of 100 yards from the north side of the marked channel to a point near Marker "7" at a point 35° 27.1722' N - 76° 55.1380' W; running northerly to the beginning point.
    - (C) Chocowinity Bay Channel - beginning at a point near the Wildlife Resources Commission (WRC) red marker in Chocowinity Bay at a point 35° 29.5501' N - 77° 01.4335' W; running easterly to the south side of the marked navigation channel in Pamlico River, at a point 35° 29.0408' N - 76° 59.5437' W; running southeasterly to a point 35° 28.9236' N - 76° 59.3109' W; running westerly to the WRC green buoy in Chocowinity Bay at a point 35° 29.5004' N - 77° 01.4339' W; running northerly to the beginning point.
    - (D) Whichard Beach Channel - beginning on shore at a point 35° 30.2364' N - 77° 01.3679' W; running easterly to the south side of the marked navigation channel in Pamlico River at a point 35° 30.1952' N - 77° 01.0252' W; running southeasterly to a point 35° 30.1373' N - 77° 00.9685' W; running westerly to shore at a point 35° 30.2002' N - 77° 01.4518' W, running northeasterly to the beginning point.
    - (E) Broad Creek Channel - beginning near Marker "3" in Broad Creek at a point 35° 29.0733' N - 76° 57.2417' W; running southwestly near Marker "1" at a point 35° 28.8591' N - 76° 57.3823' W; running southerly to the marked navigation channel in Pamlico River at a point 35° 27.8083' N - 76° 57.6250' W; running southeasterly to a point 35° 27.7344' N - 76° 57.4822' W; running northerly to the six foot depth at a point 35° 28.5779' N - 76° 57.2924' W; running northerly to the six foot depth at a point 35° 28.7781' N - 76° 57.3508' W; running northerly along the six foot depth to a point near Marker "4" at a point 35° 29.0933' N - 76° 57.1967' W; running southwestly to the beginning point.
    - (F) Blounts Bay - from June 1 through September 15, on the south side of Pamlico River beginning near Marker "7" at a point 35° 27.1722' N - 76° 55.1381' W; running westerly and along the south side of the marked navigation channel to a point near Marker "9" at a point 35° 27.7070' N - 76° 57.5739' W; running northwesterly along the south side of the marked channel to the intersection of the Chocowinity Bay Channel at a point 35° 28.9236' N - 76° 59.3109' W; running westerly along the south side of the Chocowinity Bay Channel to a point 35° 29.0206'

- N - 76° 59.6678' W; running southerly to the eight foot depth at a point 35° 28.6667' N - 76° 59.6667' W; running southeasterly along the eight foot depth to a point 35° 27.0833' N - 76° 55.1667' W; running northerly to the beginning point.
- (6) In the Pamlico River and its tributaries west of a line beginning on Willow Point at a point 35° 22.3741' N - 76° 28.6905' W; running southerly to Pamlico Point to a point 35° 18.5882' N - 76° 28.9625' W; pots may be used in Coastal Fishing Waters within an area bound by the shoreline to the depth of six feet. Pots shall not be used in areas listed in Paragraph (b) of this Rule, unless opened to the use of pots by proclamation; and except pots may be set within the following areas described by lines:
- (A) Durants Point and South Shore, upper Pungo River - beginning on Durants Point at a point 35° 30.5197' N - 76° 35.1521' W; running northwesterly to a point 35° 31.1333' N - 76° 35.5833' W; running northeasterly 200 yards south of Marker "10" to a point 35° 31.2032' N - 76° 35.5558' W; running easterly parallel to the marked navigation channel at a distance of 200 yards to the shore south of Wilkerson Creek to a point 35° 33.0493' N - 76° 27.2752' W; running southerly and westerly along the shoreline and following the Inland/Coastal lines of Horse Island, Tarklin, Scranton, and Smith Creeks to the beginning point.
- (B) Tooleys Point and North Shore, upper Pungo River - beginning at the "Breakwater" 200 yards northeast of Beacon "6", at a point 35° 31.7833' N - 76° 36.8500' W; running southeasterly to a point 200 yards from Marker "4" at a point 35° 31.5167' N - 76° 36.3500' W; running easterly parallel to the marked navigation channel at a distance of 200 yards to the north shore of Wilkerson Creek to a point 35° 33.2339' N - 76° 27.5449' W; running northwesterly along the shoreline to the east end of the US 264 bridge; running westerly along the south side of the bridge and following the Inland/Coastal line to the western shore; running southerly and westerly along the shoreline and following the Inland/Coastal lines of Upper Dowry Creek and Lower Dowry Creek; running westerly and along the shoreline of Battalina and Tooleys creeks; running along the river shore to the "Breakwater" to a point 35° 31.9908' N - 76° 36.6105' W; running southwestly along the "Breakwater" to the beginning point.
- (C) Pungo Creek - beginning on Windmill Point at a point 35° 30.7444' N - 76° 38.2869' W; running northeasterly to a point 200 yards west of Marker "3" to a point 35° 31.3500' N - 76° 36.6167' W; running northwesterly to the "Breakwater" to a point 35° 31.6296' N - 76° 37.1201' W; running westerly along the "Breakwater" to shore to a point 35° 31.5653' N - 76° 37.3832' W; running westerly along shore and into Pungo Creek following the shoreline and the Inland/Coastal lines of Vale, Scott, and Smith creeks to the north end of the NC 92 bridge over Pungo Creek; running southerly along the bridge and following the Inland/Coastal line to the southern shore; running easterly along shore to the beginning point.
- (D) Upper Pamlico - in Coastal Fishing Waters west of a line beginning on the north shore of Gum Point at a point 35° 25.1699' N - 76° 45.5251' W; running southwestly to a point on the south shore of Pamlico River to a point 35° 23.4453' N - 76° 46.4346' W, except as described in Paragraph (a)(5)(B) through (F) of this Rule.
- (E) North Side Pamlico - beginning on the north shore of Gum Point at a point 35° 25.1699' N - 76° 45.5251' W; running southwestly 500 yards from shore to a point 35° 24.9339' N - 76° 45.6495' W; running easterly parallel to the shoreline at a distance of 500 yards near Adams Point to a point 35° 23.3949' N - 76° 35.8089' W; running northerly to shore at a point 35° 23.1754' N - 76° 35.9619' W; running westerly along shore to the beginning point.
- (F) South Creek - in Coastal Fishing Waters of South Creek and tributaries west of a line beginning on Hickory Point at a point 35° 21.7385' N - 76° 41.5907' W; running southerly to Fork Point to a point 35° 20.7534' N - 76° 41.7870' W.
- (7) In Bay River west of a line beginning on Bay Point at a point 35° 11.0750' N - 76° 31.6080' W; running southerly to Maw Point to a point 35° 09.0407' N - 76° 32.2348' W; pots may be used in Coastal Fishing Waters within an area bound by the shoreline to the depth of six feet. Pots shall not be used in areas listed in Paragraph (b) of this Rule, unless opened to the use of pots by proclamation; and pots shall not be set within the following areas described by lines:
- (A) Vandemere - beginning on the west shore of Vandemere Creek at a point 35° 11.2280' N - 76° 39.6046' W; running southeasterly to the east shore to a point 35° 11.0920' N - 76° 39.3240' W; running southerly to a point 35° 10.9390' N - 76° 39.4426' W; running southwestly to a point 35° 10.8567' N - 76° 39.6212' W; running northwesterly to shore west of Vandemere Creek to a point 35° 10.8983' N - 76° 39.7307' W; running northerly along shore to the beginning point.
- (B) Moore Bay - beginning on shore west of Bell Point at a point 35° 09.6712' N - 76° 39.9651' W; running northwesterly to a point 35° 09.7331' N - 76° 40.0928' W; running southerly along the six foot depth to a point 35° 09.0045' N - 76° 40.3141' W; running southeasterly to the north

- shore of Moore Creek to a point 35° 08.9640' N - 76° 40.2000' W; running northerly along shore to the beginning point.
- (8) In the Neuse River and Point of Marsh area south and west of a line beginning on Maw Point at a point 35° 09.0407' N - 76° 32.2348' W; running southeasterly near the Maw Point Shoal Marker "2" to a point 35° 08.1250' N - 76° 30.8532' W; running southeasterly near the Neuse River Entrance Marker "NR" to a point 35° 06.6212' N - 76° 28.5383' W; running southeasterly to a point 35° 04.7670' N - 76° 25.7920' W; running southwesterly to shore to a point 35° 03.9387' N - 76° 27.0466' W; pots may be used in Coastal Fishing Waters within an area bound by the shoreline to the depth of six feet. Pots shall not be used in areas listed in Paragraph (b) of this Rule, unless opened to the use of pots by proclamation; and pots shall not be set within the following areas described by lines:
- (A) Oriental - in that area including Greens Creek and tributaries downstream of the bridge on State Secondary Road 1308, and Whittaker Creek north of a line beginning on the west shore at the Whittaker Creek primary nursery area (PNA) line; running easterly along the Whittaker Creek PNA line to the east shore; running southerly to a point 35° 01.3833' N - 76° 40.9500' W; running westerly following the six foot depth to a point 35° 01.1666' N - 76° 41.8833' W; running southerly across the channel to a point 35° 01.1339' N - 76° 41.9589' W; running westerly to Windmill Point to the south shore of the Shop Gut Creek PNA line; running northerly along the Shop Gut Creek PNA line to the north shore of the Shop Gut Creek PNA line.
- (B) Greens Creek - more than 75 yards from shore in the area beginning on the south shore of Greens Creek primary nursery area (PNA) line; following the PNA lines of Greens Creek and Kershaw Creek to the east shore of Kershaw Creek; running easterly along the shore of Greens Creek, and running along the shore of Smith Creek and its tributaries to the bridge on State Secondary Road 1308; running southwesterly along the bridge to the south shore of Greens Creek; running westerly along the shore to the beginning point.
- (C) Dawson Creek - beginning on the west shore at a point 34° 59.5920' N - 76° 45.4620' W; running easterly along the bridge on State Secondary Road 1302 to shore at a point 34° 59.5800' N - 76° 45.4140' W; running northerly and easterly along the shore to the primary nursery area (PNA) line of the southeastern tributary; running northerly along the PNA line to shore; running northerly along shore to the PNA line of the unnamed northeastern tributary; running northwesterly along the PNA line to shore; running northwesterly along shore to the Inland/Coastal line on Tarklin Creek; running westerly along the Inland/Coastal line to shore; running southwesterly along shore to the Inland/Coastal line on Dawson Creek; running southerly along the Inland/Coastal line to the shore; running easterly and then southerly along shore to the beginning point.
- (D) Wilkerson Point - beginning on the west side of the Minnesott Beach Yacht Basin Channel at a point 34° 58.2682' N - 76° 49.1903' W; running southerly to a point 34° 58.1403' N - 76° 49.2253' W; running easterly along the six foot depth to a point 34° 58.4000' N - 76° 46.5667' W; running northerly to shore to a point 34° 58.5333' N - 76° 46.6333' W; running westerly along shore to the beginning point.
- (E) Beard Creek - beginning on shore west of Beard Creek at a point 35° 00.1902' N - 76° 52.2176' W; running southerly to a point 34° 59.8883' N - 76° 52.3594' W; running easterly along the six foot depth to a point 34° 59.4167' N - 76° 51.2333' W; running northeasterly to shore to a point 34° 59.5989' N - 76° 51.0781' W; running westerly along shore to the Beard Creek tributary primary nursery area (PNA) line; running northeasterly along the PNA line to the Inland/Coastal line in Beards Creek; running westerly along the Inland/Coastal line to the western shore; running southerly along shore to the beginning point.
- (F) Clubfoot Creek - more than 50 yards from shore in the area south of a line beginning at a point 34° 54.9327' N - 76° 45.6506' W on the west shore; running northerly to a point 34° 55.1501' N - 76° 45.6221' W; running northeasterly to a point 34° 55.1812' N - 76° 45.5172' W near Marker "5"; running northeasterly to a point 34° 55.2994' N - 76° 45.1180' W on the east shore and north of line beginning at a point on the west shore 34° 54.5424' N - 76° 45.7252' W; running easterly to a point 34° 54.4853' N - 76° 45.4022' W on the east shore.
- (G) Lower Broad Creek - beginning on the north shore at a point 35° 05.8314' N - 76° 35.3845' W; running southwesterly along the secondary nursery area line to the six foot depth at 35° 05.7321' N - 76° 35.5046' W; running southerly following the six foot depth near Marker "2A" to a point 35° 05.5442' N - 76° 35.2886' W; running northerly to a point 35° 05.7446' N - 76° 35.2980' W; running westerly along the shore to the point of beginning.
- (9) In the Neuse River and Point of Marsh area south and west of a line beginning on Maw Point at a point 35° 09.0407' N - 76° 32.2348' W; running southeasterly near the Maw Point Shoal Marker "2" to a point

35° 08.1250' N - 76° 30.8532' W; running southeasterly near the Neuse River Entrance Marker "NR" to a point 35° 06.6212' N - 76° 28.5383' W; running southeasterly to a point 35° 04.7670' N - 76° 25.7920' W; running southwesterly to shore to a point 35° 03.9387' N - 76° 27.0466' W; pots may be used in Coastal Fishing Waters within an area bound by the shoreline to the depth of six feet. Pots shall not be used in areas listed in Paragraph (b) of this Rule, unless opened to the use of pots by proclamation; and except pots may be set in Coastal Fishing Waters west of a line beginning on shore west of Beards Creek at a point 35° 00.1902' N - 76° 52.2176' W; running southwesterly to shore west of Slocum Creek to a point 34° 57.0333' N - 76° 53.7252' W.

- (10) In the West Bay and Long Bay area south and west of a line beginning on shore at a point 35° 03.9387' N - 76° 27.0466' W; running northeasterly to a point 35° 04.7670' N - 76° 25.7920' W; running southeasterly to the eastern shore of West Bay to a point 35° 02.1203' N - 76° 21.8122' W; areas described by lines:
- (A) Raccoon Island, northern shore - beginning at the western point at a point 35° 04.3696' N - 76° 26.1815' W; running southeasterly along the north shore to a point 35° 03.9814' N - 76° 25.5862' W; running easterly 150 yards to a point 35° 03.9777' N - 76° 25.4910' W; running northwesterly at a distance of 150 yards from shore to a point 35° 04.4417' N - 76° 26.2150' W; running easterly to the beginning point.
  - (B) Raccoon Island, southern shore - beginning at the western point at a point 35° 04.3696' N - 76° 26.1815' W; running southeasterly along the south shore to a point 35° 03.9814' N - 76° 25.5862' W; running easterly 50 yards to a point 35° 03.9800' N - 76° 25.5513' W; running westerly at a distance of 50 yards from shore to a point 35° 04.3955' N - 76° 26.1934' W; running easterly to the beginning point.
  - (C) West Bay: Point of the Narrows - beginning on shore at a point 35° 03.5421' N - 76° 26.3909' W; running northeasterly to a point 35° 03.5980' N - 76° 26.3894' W; running southeasterly parallel to shore at a distance of 100 yards to a point 35° 02.4740' N - 76° 26.1280' W; running northwesterly to shore to a point 35° 02.5440' N - 76° 26.1486' W; running northerly along shore to the beginning point.
  - (D) West Bay: Point of Island Bay, Dowdy Bay - beginning on shore at a point 35° 01.5271' N - 76° 26.2836' W; running southeasterly to a point 35° 01.4684' N - 76° 26.2450' W; running southeasterly parallel to shore at a distance of 100 yards to a point 35° 00.0701' N - 76° 25.4414' W; running southerly to a point 35° 00.0620' N - 76° 25.5074' W on Dowdy Point; running westerly and northerly along shore to the beginning point.
  - (E) West Bay - beginning on Dowdy Point at a point 35° 00.0620' N - 76° 25.5074' W; running easterly to a point 35° 00.1000' N - 76° 25.2000' W; running southerly to a point 34° 58.7500' N - 76° 24.7000' W; running westerly to Jack's Bay Point to a point 34° 58.6886' N - 76° 25.3683' W; running northerly along shore to the beginning point.
  - (F) Long Bay: Jack's Bay, Stump Bay - beginning on Jack's Bay Point at a point 34° 58.6886' N - 76° 25.3683' W; running southwesterly to a point 34° 57.6500' N - 76° 25.8500' W; running westerly to shore to a point 34° 57.2089' N - 76° 27.2292' W; running northerly along shore to the boundary of the military restricted area (having its center at a point 34° 58.8000' N - 76° 26.2000' W) in Jack's Bay to a point 34° 58.4208' N - 76° 25.9417' W; running northeasterly along the boundary of the military restricted area to a point 34° 58.7746' N - 76° 25.6733' W; running easterly along shore to the beginning point.
  - (G) Long Bay - beginning on the east point of the southern shore of Stump Bay at a point 34° 57.2089' N - 76° 27.2292' W; running southeasterly to Swimming Point to a point 34° 56.7619' N - 76° 26.3838' W; running southerly along shore to the head of Long Bay; running northerly along the west shore to the beginning point.
  - (H) Long Bay: Owens Bay - beginning on Swimming Point at a point 34° 56.7619' N - 76° 26.3838' W; running northwesterly to a point 34° 56.8470' N - 76° 26.5363' W; running northeasterly parallel to shore at a distance of 300 yards to a point 34° 57.9394' N - 76° 24.1326' W; running southwesterly to Long Bay Point at a point 34° 57.7863' N - 76° 24.1837' W; running southwesterly along shore to the beginning point.
  - (I) West Thorofare Bay, Merkle Bay - beginning on Long Bay Point at a point 34° 57.7863' N - 76° 24.1837' W; running northeasterly near Marker "8WB" to a point 34° 58.4600' N - 76° 23.9600' W; running easterly to Tump Point to a point 34° 58.7000' N - 76° 22.8166' W; running southerly along the shore of Merkle Bay and West Thorofare Bay back to the beginning point.
  - (J) West Bay, North Bay - beginning on the eastern shore of West Bay at a point 35° 02.1203' N - 76° 21.8122' W; running northwesterly to a point 35° 02.5412' N - 76° 22.4445' W; running southwesterly near Marker "5WB" to a point 35° 02.0798' N - 76° 22.8729' W; running southerly to a point 35° 00.5666' N - 76° 21.8333' W; running southerly to Deep Bend Point to

a point 34° 58.5923' N - 76° 21.7325' W; running easterly and northerly along shore to the beginning point.

- (11) Core Sound, Back Sound, and the Straits and their tributaries.
- (12) North River:
- (A) Goose Bay - beginning on shore west of South Leopard Creek at a point 34° 45.4517' N - 76° 35.1767' W; running northerly to a point 34° 45.6409' N - 76° 35.2503' W; running southwesterly to a point 34° 45.3333' N - 76° 35.7500' W; running southerly to a point 34° 43.4667' N - 76° 35.2333' W; running easterly to shore at a point 34° 43.5833' N - 76° 34.9167' W; running northerly along shore to the beginning point.
- (B) Ward Creek - Coastal Fishing Waters north and east of a line beginning on the north shore at a point 34° 46.2667' N - 76° 35.4933' W; running southerly to south shore to a point 34° 45.4517' N - 76° 35.1767' W.
- (C) Upper North River - Coastal Fishing Waters north of a line beginning on the west shore at a point 34° 46.0383' N - 76° 37.0633' W; running easterly to shore to a point 34° 46.2667' N - 76° 35.4933' W.
- (D) Newby Creek, Gibbs Creek - beginning on Marsh Hen Point at a point 34° 45.2004' N - 76° 37.0639' W; running southwesterly to a point 34° 44.5833' N - 76° 36.6000' W; running southeasterly to shore near Holland's Rocks to a point 34° 43.6667' N - 76° 37.3333' W; running northerly along shore to the beginning point.
- (E) North River Marshes - beginning near Marker "6" at a point 34° 43.4833' N - 76° 37.3500' W; running northeasterly to a point 34° 44.1333' N - 76° 36.8667' W; running southeasterly to a point 34° 43.8000' N - 76° 36.1333' W; running southeasterly to a point 34° 43.5000' N - 76° 35.7833' W; running southerly near Marker "56" to a point 34° 42.2391' N - 76° 35.8498' W; running westerly to a point 34° 42.2333' N - 76° 36.7167' W; running northerly to a point 34° 42.7500' N - 76° 36.9667' W; running northerly to a point 34° 43.2333' N - 76° 36.9667' W; running northwesterly to the beginning point.
- (13) Newport River:
- (A) Lower portion - beginning on shore east of Penn Point at a point 34° 45.4397' N - 76° 43.0638' W; running northeasterly to shore east of Oyster Creek to a point 34° 46.5480' N - 76° 41.9910' W; running easterly along shore to a point on the western shore of Core Creek to a point 34° 47.0816' N - 76° 41.2605' W; running easterly to the eastern shore at a point 34° 46.9867' N - 76° 41.0437' W; running southerly along shore to Gallant Point to a point 34° 43.9911' N - 76° 40.2762' W; running westerly near Marker "2" to a point 34° 44.0031' N - 76° 40.5038' W; running southeasterly near Marker "4" to a point 34° 43.7064' N - 76° 40.1627' W; running southerly to the west side of Gallant's Channel at the drawbridge to a point 34° 43.3500' N - 76° 40.1833' W; running westerly along the US 70 and the US 70 bridge to its terminus at the State Port Terminal; running westerly and northerly along the western shore of Newport River and its tributaries to the beginning point.
- (B) Upper portion - the Coastal Fishing Waters west of a line beginning on shore east of Harlowe Creek at a point 34° 46.5730' N - 76° 42.6350' W; running southerly to shore east of Penn Point to a point 34° 45.6970' N - 76° 43.5180' W.
- (14) Bogue Sound:
- (A) South of the Intracoastal Waterway - beginning on the south shore at the NC 58 bridge at a point 34° 40.0585' N - 77° 03.8005' W; running northerly along the bridge to the south side of the IWW channel to a point 34° 40.4464' N - 77° 03.9155' W; running easterly along the south side of the IWW channel to the Atlantic Beach bridge to a point 34° 43.0320' N - 76° 44.1300' W; running easterly to the northeastern shore of Tar Landing Bay to a point 34° 42.5000' N - 76° 42.2000' W; running easterly along shore to a point 34° 42.1990' N - 76° 41.3873' W; running southeasterly to a point 34° 42.1631' N - 76° 41.3491' W; running southeasterly and westerly along shore to the beginning point.
- (B) North of the Intracoastal Waterway - beginning on the north shore at the NC 58 bridge at a point 34° 40.7780' N - 77° 04.0010' W; running southerly along the bridge to the north side of the IWW channel to a point 34° 40.4640' N - 77° 03.9090' W; running easterly along the north side of the IWW channel to the Atlantic Beach bridge to a point 34° 43.0620' N - 76° 44.1240' W; running northerly along the bridge to shore to a point 34° 43.2780' N - 76° 44.0700' W; running westerly along shore to the beginning point.
- (15) Designated primary nursery areas in all Coastal Fishing Waters which are listed in 15A NCAC 03R .0103, except Burton Creek off Lower Broad Creek in Pamlico County.
- (b) The pot areas referenced in 15A NCAC 03J .0301(a)(2)(B) to be opened by proclamation are delineated in the following Coastal Fishing Waters:

- (1) Wysocking Bay:
  - (A) Lone Tree Creek - beginning on shore at a point 35° 25.9705' N - 76° 02.7799' W; running easterly along the shoreline to the primary nursery area (PNA) line on the north shore of Lone Tree Creek; running southeasterly along the PNA line to the south shore; running southwesterly to a point 35° 24.7666' N - 76° 02.5333' W; running northwesterly to a point 35° 25.7000' N - 76° 03.2666' W; running northeasterly to the beginning point.
  - (B) Mt. Pleasant Bay - beginning on shore west of Green Point at a point 35° 24.6160' N - 76° 03.9690' W; running easterly to a point 35° 24.4500' N - 76° 03.2000' W; running southerly to a point 35° 23.2833' N - 76° 03.5333' W; running southwesterly to shore to a point 35° 23.1166' N - 76° 04.2000' W; running westerly and northerly along shore to the primary nursery area (PNA) line on the western shore of Hickory Creek Bay; running northeasterly along the PNA line to Browns Island; running along the eastern shore of Browns Island to the PNA line on the south shore of Old Hill Bay; running northerly along the PNA line to shore; running northeasterly along shore to the beginning point.
- (2) Juniper Bay - beginning on shore at a point 35° 21.7957' N - 76° 14.3545' W; running southeasterly along shore to the primary nursery area (PNA) line on the western shore of Buck Creek; running southeasterly along the PNA line to the eastern shore; running southeasterly along shore to the PNA line on the north shore of Laurel Creek; running southerly to the south shore; running southerly along shore to Juniper Bay Point to a point 35° 20.4420' N - 76° 13.2680' W; running westerly to a point 35° 20.2500' N - 76° 14.7500' W; running northerly near Marker "3" to a point 35° 21.5360' N - 76° 14.8040' W; running northeasterly to the beginning point.
- (3) Swanquarter Bay - beginning in Caffee Bay on the north shore at a point 35° 21.9928' N - 76° 17.6720' W; running southerly to the south shore at a point 35° 21.5240' N - 76° 17.8130' W; running westerly along shore to Drum Point to a point 35° 21.5920' N - 76° 18.3560' W; running westerly to a point 35° 21.2833' N - 76° 19.0500' W; running northwesterly to a point 35° 21.8500' N - 76° 19.4500' W; running easterly to Sandy Point to a point 35° 22.1080' N - 76° 18.7440' W; running easterly along shore and following the PNA line of the northern tributary in Caffee Bay to the beginning point.
- (4) Deep Cove - beginning on the north shore at a point 35° 21.5784' N - 76° 22.7505' W; running easterly along shore to a point 35° 21.5002' N - 76° 22.1112' W; running southerly to shore to a point 35° 20.6851' N - 76° 22.0524' W; running westerly along shore to a point 35° 20.5390' N - 76° 22.7790' W; running northerly to the beginning point.
- (5) Rose Bay - beginning on shore south of Swan Point at a point 35° 23.9650' N - 76° 23.5530' W; running southeasterly along shore to a point 35° 23.5060' N - 76° 23.2090' W; running westerly to a point 35° 23.3166' N - 76° 24.0666' W; running northwesterly to a point 35° 24.0500' N - 76° 24.5500' W; running easterly to the beginning point.
- (6) Spencer Bay - beginning on Roos Point at a point 35° 22.3590' N - 76° 28.1850' W; running northeasterly to a point 35° 22.9500' N - 76° 27.2166' W; running northwesterly to a point 35° 23.4166' N - 76° 27.9500' W; running southwesterly to shore to a point 35° 23.0209' N - 76° 28.5060' W; running southeasterly along shore and the primary nursery area line of the unnamed western tributary of Spencer Bay to the beginning point.
- (7) Pamlico River:
  - (A) Lee Creek - beginning on shore at a point 35° 22.8779' N - 76° 45.7149' W; running northerly to a point 35° 23.1011' N - 76° 45.7371' W; running easterly along the six foot depth to a point 35° 22.9450' N - 76° 44.8403' W; running southwesterly to shore to a point 35° 22.7667' N - 76° 45.2333' W; running westerly along shore to the beginning point.
  - (B) Huddy Gut - beginning on shore at a point 35° 22.5000' N - 76° 44.4500' W; running northerly to a point 35° 22.7166' N - 76° 44.5000' W; running easterly along the six foot depth to a point 35° 22.7170' N - 76° 43.9500' W; running southwesterly to shore to a point 35° 22.4657' N - 76° 44.0536' W; running westerly along shore to the beginning point.
  - (C) Indian Island - beginning on shore at the west end of Indian Island at a point 35° 21.6240' N - 76° 39.4090' W; running westerly to a point 35° 21.7667' N - 76° 40.2667' W; running easterly along the six foot depth to a point 35° 21.6107' N - 76° 38.2202' W; running westerly to the east end of Indian Island to a point 35° 21.6100' N - 76° 38.6290' W; running westerly along the northern shore to the beginning point.
  - (D) Old Field Point, Goose Creek - beginning on shore at a point 35° 20.2297' N - 76° 37.3456' W; running southeasterly to a point 35° 20.1500' N - 76° 37.1000' W; running southerly along the six foot depth to a point 35° 19.9031' N - 76° 37.2308' W; running westerly to shore to a point 35° 19.9812' N - 76° 37.4917' W; running northerly along shore to the beginning point.
- (8) Big Porpoise Bay - beginning on the north shore at a point 35° 16.0028' N - 76° 29.1708' W; running southerly to Sage Point at a point 35° 15.5930' N - 76° 29.1270' W; running easterly to a point 35°

- 15.4660' N - 76° 28.6000' W; running northerly to shore to a point 35° 15.8120' N - 76° 28.4270' W; running westerly along shore to the beginning point.
- (9) Middle Bay - beginning on Middle Bay Point at a point 35° 14.8310' N - 76° 28.7500' W; running southerly to Sow Island Point at a point 35° 13.2876' N - 76° 29.5585' W; running westerly along shore to Big Fishing Point at a point 35° 14.0285' N - 76° 29.9336' W; running northerly to Oyster Creek Point at a point 35° 14.6042' N - 76° 29.8544' W; running easterly along shore to the beginning point.
- (10) Jones Bay - beginning on Sow Island Point at a point 35° 13.1811' N - 76° 29.6096' W; running southerly near Marker "3" to a point 35° 12.0250' N - 76° 29.9660' W; running northwesterly to a point 35° 12.8000' N - 76° 30.9666' W; running southwestly to shore at the east shore of the Little Drum Creek primary nursery area (PNA) line; running westerly along the PNA line to the west shore of the Little Eve Creek PNA; running westerly along shore to a point 35° 12.6000' N - 76° 32.0166' W; running northeasterly to a point 35° 12.8666' N - 76° 31.7500' W; running northwesterly to a point 35° 13.1833' N - 76° 32.1166' W; running northerly to a point 35° 13.6500' N - 76° 31.9000' W; running southeasterly to a point 35° 13.1500' N - 76° 30.8000' W; running northerly to shore at a point 35° 13.4886' N - 76° 30.7785' W; running easterly along shore to the beginning point.
- (11) Bay Point - beginning on Boar Point at a point 35° 12.1450' N - 76° 31.1150' W; running easterly near Marker "5" to a point 35° 12.0250' N - 76° 29.9660' W; running southerly to a point 35° 10.9333' N - 76° 30.1666' W; running westerly to Bay Point to a point 35° 11.0750' N - 76° 31.6080' W; running northerly along shore to the beginning point.
- (12) Bay River:
- (A) Rockhole Bay - beginning on the western shore of Dump Creek at a point 35° 11.6708' N - 76° 33.4359' W; running southerly to a point 35° 11.3833' N - 76° 33.3166' W; running southeasterly along the six foot depth to a point 35° 10.8333' N - 76° 32.1333' W; running northerly to shore at a point 35° 11.1250' N - 76° 32.1340' W; running northwesterly along shore to the southeast shore of the Rockhole Bay PNA line; running northwesterly along the PNA line to the western shore; running westerly along shore to the east shore of PNA line in Dump Creek; running southwestly along the PNA line to the western shore; running southerly along shore to the beginning point.
- (B) Hogpen Creek - beginning on shore north of Bonner Bay at a point 35° 10.4174' N - 76° 34.7041' W; running northerly to a point 35° 10.7500' N - 76° 34.7333' W; running easterly along the six foot depth to a point southwest of Marker "3" to a point 35° 10.8137' N - 76° 33.5120' W; running southwestly to shore to a point 35° 10.3195' N - 76° 34.0876' W; running westerly along shore to the beginning point.
- (C) Fisherman Bay - beginning on the western shore of Fisherman Bay at a point 35° 09.2345' N - 76° 33.0199' W; running northwesterly to a point 35° 09.9892' N - 76° 33.2213' W; running easterly along the six foot depth to a point southwest and near Marker "1" to a point 35° 09.7951' N - 76° 32.0099' W; running southwestly to shore to a point 35° 09.2668' N - 76° 32.3668' W; running westerly along shore to the beginning point.
- (13) Neuse River:
- (A) Swan Creek - beginning at a point on shore south of Maw Bay at a point 35° 08.5760' N - 76° 32.6320' W; running southerly along shore to a point north of Swan Creek to a point 35° 07.3182' N - 76° 33.4620' W; running southeasterly to the six foot depth to a point 35° 07.2524' N - 76° 33.2078' W; running northeasterly along the six foot depth to a point 35° 08.3214' N - 76° 31.9971' W; running westerly to the beginning point.
- (B) Broad Creek - beginning on Tonney Hill Point at a point 35° 05.5505' N - 76° 35.7249' W; running southeasterly along shore and following the primary nursery area line of Cedar Creek; running southerly along shore to a point north of Gum Thicket Creek to a point 35° 04.6741' N - 76° 35.7051' W; running southeasterly to a point 35° 04.5786' N - 76° 35.4808' W; running northerly near Marker "1" to a point 35° 05.4809' N - 76° 34.9734' W; running westerly along the six foot depth near Marker "3" to a point 35° 05.6400' N - 76° 35.6433' W; running southwestly to the beginning point.
- (C) Gum Thicket Shoal - beginning on shore west of Gum Thicket Creek at a point 35° 04.2169' N - 76° 36.2119' W; running southwestly along shore to a point 35° 04.0634' N - 76° 36.6548' W; running southerly to a point 35° 03.6833' N - 76° 36.7166' W; running easterly along the six foot depth to a point 35° 03.9166' N - 76° 35.8000' W; running northwesterly to the beginning point.
- (D) Orchard Creek - beginning on the eastern shore at a point 35° 03.6712' N - 76° 37.9040' W and running southwestly along the Orchard and Old House Creeks primary nursery area line to Cockle Point; running easterly to a point 35° 03.3000' N - 76° 37.8833' W; running northerly to the beginning point.

- (E) Dawson Creek - beginning on the eastern shore of Dawson Creek at a point 34° 59.5800' N - 76° 45.4140' W; running westerly along the bridge to the western shore to a point 34° 59.5920' N - 76° 45.4620' W; running southwesterly along shore to a point 34° 59.0667' N - 76° 45.9000' W; running southeasterly to a point 34° 58.7833' N - 76° 45.6500' W; running northerly along the six foot depth to a point 34° 59.3666' N - 76° 45.3166' W; running northwesterly near Marker "4" to a point 34° 59.4430' N - 76° 45.4521' W; running northerly to the beginning point.
- (F) Pine Cliff Recreation Area - beginning on shore at a point 34° 56.4333' N - 76° 49.5833' W; running easterly along shore to a point 34° 56.3422' N - 76° 49.1158' W; running northeasterly near Marker "2" to a point 34° 56.7650' N - 76° 48.5778' W; running northerly to a point 34° 56.8333' N - 76° 48.6000' W; running southwesterly along the six foot depth to a point 34° 56.6067' N - 76° 49.6190' W; running southerly to the beginning point.

*History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52; Eff. January 1, 1991; Amended Eff. March 1, 1996; March 1, 1994; July 1, 1993; September 1, 1991; Recodified from 15A NCAC 03R .0007 Eff. December 17, 1996; Amended Eff. April 1, 2014; September 1, 2005; May 1, 1997; April 1, 1997; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

### **15A NCAC 03R .0108 MECHANICAL METHODS PROHIBITED TO TAKE OYSTERS**

The dredges and mechanical methods prohibited areas to take oysters referenced in 15A NCAC 03K .0204 are delineated in the following Internal Coastal Waters:

- (1) In Roanoke Sound and tributaries, south of a line beginning at a point 35° 55.1461' N – 75° 39.5618' W on Baum Point, running easterly to a point 35° 55.9795' N - 75° 37.2072' W and north and east of a line beginning at a point 35° 50.8315' N - 75° 37.1909' W on the west side of the mouth of Broad Creek, running easterly to a point 35° 51.0097' N - 75° 36.6910' W near Beacon "17", running southerly to a point 35° 48.6145' N - 75° 35.3760' W near Beacon "7", running easterly to a point 35° 49.0348' N - 75° 34.3161' W on Cedar Point.
- (2) In Pamlico Sound and tributaries:
  - (a) Outer Banks area, within the area described by a line beginning at a point 35° 46.0638' N - 75° 31.4385' W on the shore of Pea Island; running southwesterly to a point 35° 42.9500' N - 75° 34.1500' W; running southerly to a point 35° 39.3500' N - 75° 34.4000' W; running southeasterly to a point 35° 35.8931' N - 75° 31.1514' W in Chicamacomico Channel near Beacon "ICC"; running southerly to a point 35° 28.5610' N - 75° 31.5825' W on Gull Island; running southerly to a point 35° 22.8671' N - 75° 33.5851' W in Avon Channel near Beacon "1"; running southwesterly to a point 35° 18.9603' N - 75° 36.0817' W in Cape Channel near Beacon "2"; running westerly to a point 35° 16.7588' N - 75° 44.2554' W in Rollinson Channel near Beacon "42RC"; running southwesterly to a point 35° 14.0337' N - 75° 45.9643' W southwest of Oliver Reef near the quick-flashing beacon; running westerly to a point 35° 09.3650' N - 76° 00.6377' W in Big Foot Slough Channel near Beacon "14BF"; running southwesterly to a point 35° 08.4523' N - 76° 02.6651' W in Nine Foot Shoal Channel near Beacon "9"; running westerly to a point 35° 07.1000' N - 76° 06.9000; running southwesterly to a point 35° 01.4985' N - 76° 11.4353' W near Beacon "HL"; running southwesterly to a point 35° 00.2728' N - 76° 12.1903' W near Beacon "2CS"; running southerly to a point 34° 59.4383' N - 76° 12.3541' W in Wainwright Channel immediately east of the northern tip of Wainwright Island; running easterly to a point 34° 58.7853' N - 76° 09.8922' W on Core Banks; running northerly along the shoreline and across the inlets following the COLREGS Demarcation lines to the point of beginning;
  - (b) Stumpy Point Bay, north of a line beginning at a point 35° 40.9719' N - 75° 44.4213' W on Drain Point; running westerly to a point 35° 40.6550' N - 75° 45.6869' W on Kazer Point;
  - (c) Pains Bay, east of a line beginning at a point 35° 35.0666' N - 75° 51.2000' W on Pains Point, running southerly to a point 35° 34.4666' N – 75° 50.9666' W on Rawls Island; running easterly to a point 35° 34.2309' N - 75° 50.2695' W on the east shore;
  - (d) Long Shoal River, north of a line beginning at a point 35° 35.2120' N - 75° 53.2232' W at the 5th Avenue Canal, running easterly to a point 35° 35.0666' N - 75° 51.2000' W on the east shore on Pains Point;
  - (e) Wysocking Bay:

- (i) Wysocking Bay, north of a line beginning at a point 35° 25.2741' N - 76° 03.1169' W on Mackey Point, running easterly to a point 35° 25.1189' N - 76° 02.0499' W at the mouth of Lone Tree Creek;
- (ii) Mount Pleasant Bay, west of a line beginning at a point 35° 23.8652' N - 76° 04.1270' W on Browns Island, running southerly to a point 35° 22.9684' N - 76° 03.7129' W on Bensons Point;
- (f) Juniper Bay, north of a line beginning at a point 35° 22.1384' N - 76° 15.5991' W near the Caffee Bay ditch, running easterly to a point 35° 22.0598' N - 76° 15.0095' W on the east shore;
- (g) Swan Quarter Bay:
  - (i) Caffee Bay, east of a line beginning at a point 35° 22.1944' N - 76° 19.1722' W on the north shore, running southerly to a point 35° 21.5959' N - 76° 18.3580' W on Drum Point;
  - (ii) Oyster Creek, east of a line beginning at a point 35° 23.3278' N - 76° 19.9476' W on the north shore, running southerly to a point 35° 22.7018' N - 76° 19.3773' W on the south shore;
- (h) Rose Bay:
  - (i) Rose Bay, north of a line beginning at a point 35° 25.7729' N - 76° 24.5336' W on Island Point, running southeasterly and passing near Beacon "5" to a point 35° 25.1854' N - 76° 23.2333' W on the east shore;
  - (ii) Tooleys Creek, west of a line beginning at a point 35° 25.7729' N - 76° 24.5336' W on Island Point, running southwesterly to a point 35° 25.1435' N - 76° 25.1646' W on Ranger Point;
- (i) Spencer Bay:
  - (i) Striking Bay, north of a line beginning at a point 35° 23.4106' N - 76° 26.9629' W on Short Point, running easterly to a point 35° 23.3404' N - 76° 26.2491' W on Long Point;
  - (ii) Germantown Bay, north of a line beginning at a point 35° 24.0937' N - 76° 27.9348' W; on the west shore, running easterly to a point 35° 23.8598' N - 76° 27.4037' W on the east shore;
- (j) Abel Bay, northeast of a line beginning at a point 35° 23.6463' N - 76° 31.0003' W on the west shore, running southeasterly to a point 35° 22.9353' N - 76° 29.7215' W on the east shore;
- (k) Pungo River, Fortescue Creek, east of a line beginning at a point 35° 25.9213' N - 76° 31.9135' W on Pasture Point; running southerly to a point 35° 25.6012' N - 76° 31.9641' W on Lupton Point;
- (l) Pamlico River:
  - (i) North Creek, north of a line beginning at a point 35° 25.3988' N - 76° 40.0455' W on the west shore, running southeasterly to a point 35° 25.1384' N - 76° 39.6712' W on the east shore;
  - (ii) Campbell Creek (off of Goose Creek), west of a line beginning at a point 35° 17.3600' N - 76° 37.1096' W on the north shore; running southerly to a point 35° 16.9876' N - 76° 37.0965' W on the south shore;
  - (iii) Eastham Creek (off of Goose Creek), east of a line beginning at a point 35° 17.7423' N - 76° 36.5164' W on the north shore; running southeasterly to a point 35° 17.5444' N - 76° 36.3963' W on the south shore;
  - (iv) Oyster Creek-Middle Prong, southwest of a line beginning at a point 35° 19.4921' N - 76° 32.2590' W on Cedar Island; running southeasterly to a point 35° 19.1265' N - 76° 31.7226' W on Beard Island Point; and southwest of a line beginning at a point 35° 19.5586' N - 76° 32.8830' W on the west shore, running easterly to a point 35° 19.5490' N - 76° 32.7365' W on the east shore;
- (m) Mouse Harbor, west of a line beginning at a point 35° 18.3915' N - 76° 29.0454' W on Persimmon Tree Point, running southerly to a point 35° 17.1825' N - 76° 28.8713' W on Yaupon Hammock Point;
- (n) Big Porpoise Bay, northwest of a line beginning at a point 35° 15.6993' N - 76° 28.2041' W on Big Porpoise Point, running southwesterly to a point 35° 14.9276' N - 76° 28.8658' W on Middle Bay Point;
- (o) Middle Bay, west of a line beginning at a point 35° 14.8003' N - 76° 29.1923' W on Deep Point, running southerly to a point 35° 13.5419' N - 76° 29.6123' W on Little Fishing Point;
- (p) Jones Bay, west of a line beginning at a point 35° 14.0406' N - 76° 33.3312' W on Drum Creek Point, running southerly to a point 35° 13.3609' N - 76° 33.6539' W on Ditch Creek Point;
- (q) Bay River:

- (i) Gales Creek-Bear Creek, north and west of a line beginning at a point 35° 11.2833' N - 76° 35.9000' W on Sanders Point, running northeasterly to a point 35° 11.9000' N - 76° 34.2833' W on the east shore;
- (ii) Bonner Bay, southeast of a line beginning at a point 35° 09.6281' N - 76° 36.2185' W on the west shore; running northeasterly to a point 35° 10.0888' N - 76° 35.2587' W on Davis Island Point;
- (r) Neuse River:
  - (i) Lower Broad Creek, west of a line beginning at a point 35° 05.8314' N - 76° 35.3845' W on the north shore; running southwesterly to a point 35° 05.5505' N - 76° 35.7249' W on the south shore;
  - (ii) Greens Creek - north of a line beginning at a point 35° 01.3476' N - 76° 42.1740' W on the west shore of Greens Creek; running northeasterly to a point 35° 01.4899' N - 76° 41.9961' W on the east shore;
  - (iii) Dawson Creek, north of a line beginning at a point 34° 59.5920' N - 76° 45.4620' W on the west shore; running southeasterly to a point 34° 59.5800' N - 76° 45.4140' W on the east shore;
  - (iv) Clubfoot Creek, south of a line beginning at a point 34° 54.5424' N - 76° 45.7252' W on the west shore, running easterly to a point 34° 54.4853' N - 76° 45.4022' W on the east shore;
  - (v) Turnagain Bay, south of a line beginning at a point 34° 59.4065' N - 76° 30.1906' W on the west shore; running easterly to a point 34° 59.5668' N - 76° 29.3557' W on the east shore;
- (s) West Bay:
  - (i) Long Bay-Ditch Bay, west of a line beginning at a point 34° 57.9388' N - 76° 27.0781' W on the north shore of Ditch Bay; running southwesterly to a point 34° 57.2120' N - 76° 27.2185' W on the south shore of Ditch Bay; then south of a line running southeasterly to a point 34° 56.7633' N - 76° 26.3927' W on the east shore of Long Bay;
  - (ii) West Thorofare Bay, south of a line beginning at a point 34° 57.2199' N - 76° 24.0947' W on the west shore; running easterly to a point 34° 57.4871' N - 76° 23.0737' W on the east shore;
  - (iii) Merkle Bay, east of a line beginning at a point 34° 58.2286' N - 76° 22.8374' W on the north shore, running southerly to a point 34° 57.5920' N - 76° 23.0704' W on Merkle Bay Point;
  - (iv) North Bay, east of a line beginning at a point 35° 01.8982' N - 76° 21.7135' W on Point of Grass, running southeasterly to a point 35° 01.3320' N - 76° 21.3353' W on Western Point.
- (3) In Core Sound and its tributaries, southwest of a line beginning at a point 35° 00.1000' N - 76° 14.8667' W near Hog Island Reef; running easterly to a point 34° 58.7853' N - 76° 09.8922' W on Core Banks; and in the following waterbodies and their tributaries: Back Bay, the Straits, Back Sound, North River, Newport River, Bogue Sound, and White Oak River.
- (4) In Onslow, Pender, New Hanover, and Brunswick counties.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; Eff. January 1, 1991; Amended Eff. July 1, 1993; October 1, 1992; September 1, 1991; Recodified from 15A NCAC 03R .0008 Eff. December 17, 1996; Amended Eff. April 1, 2016; October 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**15A NCAC 03R .0109 TAKING CRABS WITH DREDGES**

The area referenced in 15A NCAC 03L .0203 is described by a line beginning near Roanoke Marshes Light at a point 35° 48.6649' N - 75° 42.0503' W; running southwesterly to a point 35° 47.7480' N - 75° 43.9320' W; running southerly to a point 35° 40.9719' N - 75° 44.4213' W on Drain Point; running southerly to a point 35° 37.5234' N - 75° 44.0875' W on Sandy Point; running easterly to a point 35° 36.0000' N - 75° 31.2000' W near Beacon "ICC" at Chicamacomico Channel; running northwesterly to a point 35° 39.3500' N - 75° 34.4000' W in Pamlico Sound; running northerly to a point 35° 42.9500' N - 75° 34.1500' W in Pamlico Sound; running northeasterly to a point 35° 46.0638' N - 75° 31.4385' W on Pea Island; running northwesterly near the Bodie Island Lighthouse to a point 35° 49.1160' N - 75° 33.8100' W; running westerly to the point of beginning.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; Eff. January 1, 1991; Recodified from 15A NCAC 3R .0009 Eff. December 17, 1996; Amended Eff. August 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

### **15A NCAC 03R .0110 CRAB SPAWNING SANCTUARIES**

The crab spawning sanctuaries within which the taking of crabs may be restricted or prohibited are described as follows:

- (1) In the Oregon Inlet Area. Beginning at a point on the Atlantic Ocean shore of Bodie Island 35° 47.7054' N - 75° 32.3522' W; running northeasterly to a point in the Atlantic Ocean 35° 47.9833' N - 75° 31.8500' W; running southerly to a point in the ocean 35° 46.3500' N - 75° 30.6666' W; running westerly to a point on the Atlantic Ocean shore at 35° 46.1037' N - 75° 31.2785' W; running northerly along the Atlantic shore of Pea Island to and around South Point and continuing southerly along the shore of Pamlico Sound to a point on the south point of Eagle Nest Bay at 35° 43.7085' N - 75° 30.8009' W; running westerly to a point in Pamlico Sound at 35° 43.7100' N - 75° 32.2113' W; running northerly to a point 35° 47.3992' N - 75° 34.1650' W in Pamlico Sound; running northerly to a point on Bodie Island 35° 48.5740' N - 75° 33.8722' W; running southerly along the shore to and around North Point at Oregon Inlet and then northerly on the Atlantic shore to the point of beginning;
- (2) In the Hatteras Inlet Area. Beginning at a point on the Pamlico Sound shoreline of Hatteras Island 35° 12.0846' N - 75° 43.3514' W; running northwesterly to a point in Pamlico Sound 35° 13.6361' N - 75° 45.4451' W; running southwestly to a point near Outer Green Island 35° 11.0794' N - 75° 48.4440' W; running southeasterly to a point on the Pamlico Sound shore of Ocracoke Island 35° 10.7004' N - 75° 47.9094' W; running northeasterly along the shoreline to a point on the northeastern tip of Ocracoke Island 35° 11.2340' N - 75° 46.3051' W; running southeasterly to a point in the Atlantic Ocean at 35° 10.6644' N - 75° 44.5221' W; running northeasterly to a point on the ocean shoreline of Hatteras Island 35° 11.7894' N - 75° 43.5946' W; running southwestly around the tip of Hatteras Island to the point of beginning;
- (3) In the Ocracoke Inlet Area. Beginning at a point on Ocracoke Island 35° 06.2555' N - 75° 59.3722' W; running westerly through Shellcastle Island to a point in Pamlico Sound 35° 05.8599' N - 76° 04.3639' W; running southerly to a point on Portsmouth Island 35° 03.7378' N - 76° 04.7850' W; running northeasterly along the shore of Pamlico Sound around the western side of Ocracoke Inlet and southwestly along the shore of the Atlantic Ocean to a point 35° 03.0500' N - 76° 03.0833' W; running southeasterly offshore to a point in the Atlantic Ocean 35° 02.6333' N - 76° 02.7166' W; running northeasterly to a point in the ocean 35° 03.9666' N - 75° 59.3000' W; running northwesterly to a point on the Atlantic shore of Ocracoke Island 35° 04.7402' N - 75° 59.7124' W; running southwestly along the shore around the eastern side of Ocracoke Inlet and northeasterly along the shore to the point of beginning;
- (4) In the Drum Inlet Area. Beginning at a point on the Core Sound shore of Core Banks 34° 52.81101' N - 76° 17.1780' W; running northwesterly to a point in Core Sound 34° 53.7347' N - 76° 18.0439' W; running southwestly to a point in Core Sound 34° 50.8286' N - 76° 21.2515' W; running southeasterly to a point on the Core Sound shore of Core Banks 34° 50.1496' N - 76° 20.3924' W; following the shoreline in a northeasterly direction around the western side of Drum Inlet then along the Atlantic Ocean shoreline to a point on Core Banks 34° 50.0049' N - 76° 20.3741' W; running southeasterly to a point in the Atlantic Ocean 34° 49.4995' N - 76° 19.8407' W; running northeasterly to a point in the Atlantic Ocean 34° 52.2167' N - 76° 16.7476' W; running northwesterly to a point on the ocean shore of Core Banks 34° 52.6147' N - 76° 17.0705' W; running southwestly toward and around the eastern side of Drum Inlet, then in a northeasterly direction along the Core Sound shore of Core Sound to the point of beginning;
- (5) In the Bardens Inlet Area. Beginning at a point on Core Banks near the southern side of Hogpen Bay 34° 40.7047' N - 76° 29.6108' W; running westerly to a point near Marker "35" at 34° 40.7071' N - 76° 31.5922' W; running southwestly to a point on Shackleford Banks 34° 38.9974' N - 76° 32.4858' W; running southeasterly around the eastern end of Shackleford Banks and then northwesterly along the ocean shoreline to a point on shore 34° 38.5608' N - 76° 32.6863' W; running southwestly through Buoy "4" to Buoy "2" at the end of the Cape Lookout Jetty 34° 37.1272' N - 76° 33.7381' W; running southeasterly to the base of the Cape Lookout Jetty 34° 36.7836' N - 76° 33.1569' W; running northerly to the end of Power Squadron Spit, around Lookout Bight and northerly up Core Banks to the point of beginning.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. September 1, 1991;  
Recodified from 15A NCAC 03R .0010 Eff. December 17, 1996;  
Amended Eff. August 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**15A NCAC 03R .0111 PURSE SEINES PROHIBITED**

(a) It is unlawful to take menhaden or Atlantic thread herring by the use of a purse seine from the Atlantic Ocean within an area bounded by a line extending from a point near the Bald Head Lighthouse (33° 52.3500' N - 78° 00.3000' W) running southwesterly to a point near Cape Fear River ship channel buoy "9" (33° 51.5500' N - 78° 01.5500' W), then running northwesterly to a point near the foot of the Yaupon Beach Fishing Pier on Oak Island (33° 54.2000' N - 78° 04.9333' W), then following the shoreline easterly to a point near Fort Caswell (33° 53.2166' N - 78° 01.1833' W), then running southeasterly back to the point of origin.

(b) It is unlawful to take menhaden or Atlantic thread herring by the use of a purse seine from the Atlantic Ocean from May 1 through September 30:

- (1) In that area bounded by a line beginning at a point onshore at the northern boundary of Dare County 36° 13.8536' N - 75° 46.3914' W; running easterly 1.5 miles to a point offshore 36° 13.8536' N - 75° 44.3814' W; running southerly parallel to and 1.5 nautical miles from the ocean beach to a point 1.5 nautical miles offshore the northern town limits of Southern Shores 36° 09.0673' N - 75° 44.2225' W; running westerly to a point onshore at the northern town limits of Southern Shores 36° 09.0673' N - 75° 42.2416' W; and
- (2) In that area bounded by a line beginning at a point at the southern limits of Kitty Hawk 36° 03.3187' N - 75° 40.9503' W; running easterly 1.5 nautical miles to a point offshore 36° 03.3187' N - 75° 38.8029' W; running southerly parallel to and 1.5 nautical miles from the ocean beach to a point 1.5 nautical miles offshore of the rock jetty south of Oregon Inlet 35° 46.4052' N - 75° 29.2379' W; running westerly to a point onshore at the rock jetty south of Oregon Inlet 35° 46.4052' N - 75° 31.5369' W.

(c) It is unlawful to take menhaden or Atlantic thread herring by the use of a purse seine from the Atlantic Ocean from October 1 through December 31:

- (1) In that area bounded by a line beginning at a point onshore at the northern boundary of Dare County 36° 13.8536' N - 75° 46.3914' W; running easterly 0.5 nautical miles to a point offshore 36° 13.8536' N - 75° 45.6977' W; running southerly parallel to and 0.5 nautical miles off the ocean beach to a point 0.5 nautical miles offshore the northern town limits of Southern Shores 36° 09.0673' N - 75° 43.5514' W; running westerly 0.5 nautical miles to a point onshore at the northern town limits of Southern Shores 36° 09.0673' N - 75° 44.2416' W; and
- (2) In that area bounded by a line beginning at a point at the southern limits of Kitty Hawk 36° 03.3187' N - 75° 40.9503' W; running easterly 0.5 nautical miles to a point offshore 36° 03.3187' N - 75° 40.2033' W; running southerly parallel to and 0.5 nautical mile off the ocean beach to a point offshore the rock jetty south of Oregon Inlet 35° 46.4052' N - 75° 30.6134' W; running westerly to a point onshore at the rock jetty south of Oregon Inlet 35° 46.4052' N - 75° 31.5369' W.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. October 1, 1993;  
Recodified from 15A NCAC 03R .0011 Eff. December 17, 1996;  
Amended Eff. August 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**15A NCAC 03R .0112 ATTENDED GILL NET AREAS**

(a) The attended gill net areas referenced in 15A NCAC 03J .0103(g) are delineated in the following areas:

- (1) Pamlico River, west of a line beginning at a point 35° 27.5768' N - 76° 54.3612' W on Ragged Point; running southwesterly to a point 35° 26.9176' N - 76° 55.5253' W on Mauls Point;
- (2) within 200 yards of the shoreline in Pamlico River and its tributaries east of a line beginning at a point 35° 27.5768' N - 76° 54.3612' W on Ragged Point; running southwesterly to a point 35° 26.9176' N - 76° 55.5253' W on Mauls Point; and west of a line beginning at a point 35° 22.3622' N - 76° 28.2032' W on Roos Point; running southerly to a point at 35° 18.5906' N - 76° 28.9530' W on Pamlico Point;
- (3) Pungo River, east of the northern portion of the Pantego Creek breakwater and a line beginning at a point 35° 31.7198' N - 76° 36.9195' W on the northern side of the breakwater near Tooleys Point; running southeasterly to a point 35° 30.5312' N - 76° 35.1594' W on Durants Point;
- (4) within 200 yards of the shoreline in Pungo River and its tributaries west of the northern portion of the Pantego Creek breakwater and a line beginning at a point 35° 31.7198' N - 76° 36.9195' W on the

- northern side of the breakwater near Tooleys Point; running southeasterly to a point 35° 30.5312' N – 76° 35.1594' W on Durants Point; and west of a line beginning at a point 35° 22.3622' N – 76° 28.2032' W on Roos Point; running southerly to a point at 35° 18.5906' N – 76° 28.9530' W on Pamlico Point;
- (5) Neuse River and its tributaries northwest of the Highway 17 highrise bridge;
  - (6) Trent River and its tributaries; and
  - (7) within 200 yards of the shoreline in Neuse River and its tributaries east of the Highway 17 highrise bridge and south and west of a line beginning on Maw Point at a point 35° 09.0407' N – 76° 32.2348' W; running southeasterly near the Maw Point Shoal Marker "2" to a point 35° 08.1250' N – 76° 30.8532' W; running southeasterly near the Neuse River Entrance Marker "NR" to a point 35° 06.6212' N – 76° 28.5383' W; running southerly to a point 35° 04.4833' N – 76° 28.0000' W near Point of Marsh in Neuse River. In Core and Clubfoot creeks, the Highway 101 Bridge shall constitute the attendance boundary.
- (b) The attended gill net areas referenced in 15A NCAC 03J .0103(h) are delineated in the following Internal Coastal Waters and Joint Fishing Waters of the State south of a line beginning on Roanoke Marshes Point at a point 35° 48.3693' N – 75° 43.7232' W; running southeasterly to a point 35° 44.1710' N – 75° 31.0520' W on Eagles Nest Bay to the South Carolina state line:
- (1) all primary nursery areas described in 15A NCAC 03R .0103, all permanent secondary nursery areas described in 15A NCAC 03R .0104, and no-trawl areas described in 15A NCAC 03R .0106(2), (4), (5), (8), (10), (11), and (12);
  - (2) in the area along the Outer Banks, beginning at a point 35° 44.1710' N – 75° 31.0520' W on Eagles Nest Bay; running northwesterly to a point 35° 45.1833' N – 75° 34.1000' W west of Pea Island; running southerly to a point 35° 40.0000' N – 75° 32.8666' W west of Beach Slough; running southeasterly and passing near Beacon "2" in Chicamicomico Channel to a point 35° 35.0000' N – 75° 29.8833' W west of the Rodanthe Pier; running southwestly to a point 35° 28.4500' N – 75° 31.3500' W on Gull Island; running southerly to a point 35° 22.3000' N – 75° 33.2000' W near Beacon "2" in Avon Channel ; running southwestly to a point 35° 19.0333' N – 75° 36.3166' W near Beacon "2" in Cape Channel; running southwestly to a point 35° 15.5000' N – 75° 43.4000' W near Beacon "36" in Rollinson Channel; running southeasterly to a point 35° 14.9386' N – 75° 42.9968' W near Beacon "35" in Rollinson Channel; running southwestly to a point 35° 14.0377' N – 75° 45.9644' W near a "Danger" Beacon northwest of Austin Reef; running southwestly to a point 35° 11.4833' N – 75° 51.0833' W on Legged Lump; running southeasterly to a point 35° 10.9666' N – 75° 49.7166' W south of Legged Lump; running southwestly to a point 35° 09.3000' N – 75° 54.8166' W near the west end of Clarks Reef; running westerly to a point 35° 08.4333' N – 76° 02.5000' W near Nine Foot Shoal Channel; running southerly to a point 35° 06.4000' N – 76° 04.3333' W near North Rock; running southwestly to a point 35° 01.5833' N – 76° 11.4500' W near Beacon "HL"; running southerly to a point 35° 00.2666' N – 76° 12.2000' W; running southerly to a point 34° 59.4664' N – 76° 12.4859' W on Wainwright Island; running easterly to a point 34° 58.7853' N – 76° 09.8922' W on Core Banks; running northerly along the shoreline and across the inlets following the COLREGS Demarcation Line to the point of beginning;
  - (3) in Core and Back sounds, beginning at a point 34° 58.7853' N – 76° 09.8922' W on Core Banks; running northwesterly to a point 34° 59.4664' N – 76° 12.4859' W on Wainwright Island; running southerly to a point 34° 58.8000' N – 76° 12.5166' W; running southeasterly to a point 34° 58.1833' N – 76° 12.3000' W; running southwestly to a point 34° 56.4833' N – 76° 13.2833' W; running westerly to a point 34° 56.5500' N – 76° 13.6166' W; running southwestly to a point 34° 53.5500' N – 76° 16.4166' W; running northwesterly to a point 34° 53.9166' N – 76° 17.1166' W; running southerly to a point 34° 53.4166' N – 76° 17.3500' W; running southwestly to a point 34° 51.0617' N – 76° 21.0449' W; running southwestly to a point 34° 48.3137' N – 76° 24.3717' W; running southwestly to a point 34° 46.3739' N – 76° 26.1526' W; running southwestly to a point 34° 44.5795' N – 76° 27.5136' W; running southwestly to a point 34° 43.4895' N – 76° 28.9411' W near Beacon "37A"; running southwestly to a point 34° 40.4500' N – 76° 30.6833' W; running westerly to a point 34° 40.7061' N – 76° 31.5893' W near Beacon "35" in Back Sound; running westerly to a point 34° 41.3178' N – 76° 33.8092' W near Buoy "3"; running southwestly to a point 34° 39.6601' N – 76° 34.4078' W on Shackleford Banks; running easterly and northeasterly along the shoreline and across the inlets following the COLREGS Demarcation lines to the point of beginning;
  - (4) within 200 yards of the shoreline in the area upstream of the 76° 28.0000' W longitude line beginning at a point 35° 22.3752' N – 76° 28.0000' W near Roos Point in Pamlico River; running southeasterly to a point 35° 04.4833' N – 76° 28.0000' W near Point of Marsh in Neuse River; and
  - (5) within 50 yards of the shoreline east of the 76° 28.0000' W longitude line beginning at a point 35° 22.3752' N – 76° 28.0000' W near Roos Point in Pamlico River; running southeasterly to a point 35°

04.4833' N – 76° 28.0000' W near Point of Marsh in Neuse River, except from October 1 through November 30, south and east of Highway 12 in Carteret County and south of a line from a point 34° 59.7942' N – 76° 14.6514' W on Camp Point; running easterly to a point at 34° 58.7853' N – 76° 09.8922' W on Core Banks; to the South Carolina state Line.

*History Note:* Authority G.S. 113-134; 113-173; 113-182; 143B-289.52;  
Eff. August 1, 2004;  
Amended Eff. April 1, 2016; June 1, 2013; April 1, 2011; April 1, 2009;  
Readopted Eff. April 1, 2019.

**15A NCAC 03R .0113 POUND NET SET PROHIBITED AREAS**

The pound net set prohibited areas referenced in 15A NCAC 03J .0502 are delineated in the following coastal water areas of Core Sound:

- (1) The area described by a line beginning at a point 34° 58.9130' N - 76° 15.0878' W on the shoreline north of Great Ditch; running southwestly to a point 34° 58.6399' N - 76° 15.3694' W on the south shore of Great Ditch; following the shoreline to a point 34° 58.4957' N - 76° 15.8093' W on Hog Island Point; running southwestly to a point 34° 58.2318' N - 76° 16.0913' W near Marker "3"; running southeasterly to a point 34° 58.0773' N - 76° 15.6134' W near Beacon "2"; running southeasterly to a point 34° 57.3120' N - 76° 13.7113' W near Beacon "13"; running northeasterly to a point 34° 58.5157' N - 76° 13.2389' W near Beacon "11"; running northwestly to the point of beginning;
- (2) The area described by a line beginning in Cedar Island Bay at a point 34° 58.2318' N - 76° 16.0913' W near Marker "3"; running southwestly to a point 34° 57.4914' N - 76° 16.5861' W on Cedar Island Point; running southeasterly to a point 34° 56.3436' N - 76° 15.6069' W near Beacon "18"; running northerly to a point 34° 58.0773' N - 76° 15.6134' W near Beacon "2"; running northwestly to the point of beginning; and
- (3) The area described by a line beginning on the north shore of Lewis Creek at a point 34° 56.9654' N - 76° 16.7395' W; running easterly to a point 34° 56.3436' N - 76° 15.6069' W near Beacon "18"; running southwestly to a point 34° 54.9904' N - 76° 16.5888' W near Beacon "19"; running southwestly following the six foot contour to a point 34° 53.7599' N - 76° 18.1613' W; running southwestly to a point 34° 50.6266' N - 76° 22.0449' W near Beacon "27"; running westerly to a point 34° 50.5496' N - 76° 22.9284' W near Beacon "28"; running southwestly to a point 34° 49.1889' N - 76° 24.2010' W near Beacon "29"; running westerly to a point 34° 48.9514' N - 76° 24.8780' W near Beacon "31"; running southwestly to a point 34° 45.0942' N - 76° 27.9533' W near Beacon "35"; running southwestly to a point 34° 43.4896' N - 76° 28.9411' W near Beacon "37A"; running westerly to a point 34° 43.7782' N - 76° 30.0187' W on Bells Point; running northerly along the shoreline of Bells Island to a point 34° 44.2190' N - 76° 30.1336' W; running northerly to a point 34° 44.2568' N - 76° 30.1419' W; running northerly along the shoreline to a point 34° 44.6759' N - 76° 30.1712' W; running northeasterly to a point 34° 45.2824' N - 76° 29.1636' W on Davis Island; running northeasterly to a point 34° 45.8196' N - 76° 28.7530' W on the north side of Spit Bay; running northeasterly along the shoreline to a point 34° 48.7982' N - 76° 26.9741' W on the south shore of Oyster Creek; running northeasterly to a point 34° 48.9701' N - 76° 26.6299' W on the north shore of Oyster Creek; running northeasterly along the shoreline to a point 34° 50.4311' N - 76° 24.9934' W on the south shore of Fulcher Creek; running northeasterly to point 34° 50.4911' N - 76° 24.9540' W on the north shore of Fulcher Creek; running northeasterly along the shoreline to a point 34° 50.9934' N - 76° 24.7727' W on the south shore of Willis Creek; running northeasterly to a point 34° 51.1866' N - 76° 24.5416' W on the south shore of Nelson Bay; running easterly to a point 34° 51.4437' N - 76° 23.6151' W on Drum Point; running easterly along the shoreline to a point 34° 51.4462' N - 76° 22.9669' W at Mill Point; running northeasterly to a point 34° 52.4143' N - 76° 20.8557' W on Steep Point; running northeasterly along the shoreline to a point 34° 54.3782' N - 76° 18.8575' W on Hall Point; running northeasterly to a point 34° 55.4257' N - 76° 17.8541' W on Lookout Point; running northeasterly along the shoreline to a point 34° 55.7679' N - 76° 17.7021' W on the south shore of Rumley Bay; running northeasterly to a point 34° 56.2513' N - 76° 17.1858' W on the north shore of Rumley Bay; running northeasterly along the shoreline to the point of beginning.

*History Note:* Authority G.S. 113-134; 113-181; 113-182; 143B-289.52;  
Eff. August 1, 2004;  
Amended Eff. April 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

**15A NCAC 03R .0114 SHRIMP TRAWL PROHIBITED AREAS**

The shrimp trawl prohibited areas referenced in 15A NCAC 03L .0103(e) are delineated in the following Internal Coastal Waters:

- (1) Pungo River - all waters upstream of a line from a point 35° 23.3166' N - 76° 34.4833' W at Wades Point; running easterly to a point 35° 23.6463' N - 76° 31.0003' W on the north shore of the entrance to Abels Bay.
- (2) Pamlico River - all waters upstream of a line from a point 35° 20.5108' N - 76° 37.7218' W on the western shore of the entrance to Goose Creek; running northeasterly to a point 35° 23.3166' N - 76° 34.4833' W at Wades Point.
- (3) Neuse River - all waters upstream of a line from a point 34° 56.3658' N - 76° 48.7110' W at Cherry Point; running northerly to a point 34° 57.9116' N - 76° 48.2240' W at Wilkinson Point.
- (4) Shallotte River - all waters upstream of a line beginning at a point 33° 54.8285' N - 78° 22.3657' W on the west side of Shallotte River; running southeasterly to a point 33° 54.6276' N - 78° 21.7882' W on the east side of the river.
- (5) Eastern Channel - all waters of Eastern Channel east and north of a line beginning at a point 33° 52.6734' N - 78° 28.7339' W at Jinks Creek; running southerly to a point 33° 52.5942' N - 78° 28.6759' W at Tubbs Inlet; and south and west of a line beginning at a point 33° 53.6266' N - 78° 26.6262' W; running easterly to a point 33° 53.6501' N - 78° 26.5635' W.
- (6) Sunset Beach - all waters of the Intracoastal Waterway west of a line beginning at a point 33° 52.9247' N - 78° 30.7041' W on the north end of the Highway 1172 Bridge; running southerly to a point 33° 52.8417' N - 78° 30.6490' W at the south end of the bridge.
- (7) Calabash River - all waters west of a line beginning at a point 33° 53.4368' N - 78° 32.9720' W on the north end of the Highway 1164 Bridge; running southerly to a point 33° 53.3534' N - 78° 32.9720' W at the south end of the bridge.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. July 1, 2006;  
Amended Eff. May 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**15A NCAC 03R .0115 ANADROMOUS FISH SPAWNING AREAS**

The anadromous fish spawning areas as defined in 15A NCAC 03I .0101 and referenced in 15A NCAC 03N .0106 are delineated in the following Internal Coastal Waters:

- (1) Currituck Sound Area:
  - (a) Northwest River - all waters of the Northwest River and its tributaries east of a line beginning on the north shore at a point 36° 30.8374' N - 76° 04.8770' W; running southerly to the south shore to a point 36° 30.7061' N - 76° 04.8916' W.
  - (b) Tull Bay/Tull Creek - all waters of Tull Bay and its tributaries northeast of a line beginning on the north shore at a point 36° 30.0991' N - 76° 04.8587' W; running southeasterly to the south shore to a point 36° 29.9599' N - 76° 04.7126' W; and south of a line beginning on the west shore at a point 36° 30.9867' N - 76° 02.5868' W; running easterly to the east shore to a point 36° 31.0045' N - 76° 02.3780' W; and west of a line beginning on the north shore at a point 36° 30.8291' N - 76° 02.1329' W; running southwesterly to the south shore to a point 36° 30.1512' N - 76° 02.4982' W.
- (2) Albemarle Sound Area:
  - (a) Big Flatty Creek - all waters of Big Flatty Creek and its tributaries east of a line beginning on the north shore at a point 36° 09.3267' N - 76° 08.2562' W; running southerly to the south shore to a point 36° 08.9730' N - 76° 08.3175' W; and north of a line beginning on the west shore at a point 36° 07.9621' N - 76° 07.1818' W; running easterly to the east shore to a point 36° 08.2706' N - 76° 06.2525' W.
  - (b) Batchelor Bay - west of a line beginning on the north shore at a point 35° 58.2070' N - 76° 42.7267' W; running southeasterly to the south shore to a point 35° 56.5622' N - 76° 41.5506' W.
  - (c) Bull Bay - southwest of a line beginning on the northwest shore at a point 35° 58.9002' N - 76° 23.9965' W; running southeasterly to the southeast shore at a point 35° 56.7198' N - 76° 18.8964' W.
- (3) North River - all waters of the North River and its tributaries east of a line beginning on the north shore at a point 36° 18.7703' N - 75° 58.7384' W; running southerly to the south shore to a point 36° 18.4130'

- N - 75° 58.7228' W; and north of a line beginning on the west shore at a point 36° 16.9952' N - 75° 57.0758' W; running easterly to the east shore to a point 36° 16.9801' N - 75° 56.6820' W.
- (4) Pasquotank River - all waters of the Pasquotank River and its tributaries south of a line beginning on the west shore at a point 36° 18.0768' N - 76° 13.0979' W; running easterly to the east shore along the south side of the Highway 158 Bridge to a point 36° 18.0594' N - 76° 12.9620' W; and northwest of a line beginning on the northeast shore at a point 36° 14.3294' N - 76° 04.7866' W; running southwesterly to the southwest shore to a point 36° 12.8147' N - 76° 07.0465' W.
- (5) Pasquotank River Area:
- (a) Charles Creek - north of a line beginning on the west shore at a point 36° 17.8090' N - 76° 13.0732' W; running easterly to the east shore to a point 36° 17.8024' N - 76° 13.0407' W.
- (b) New Begun Creek - east of a line beginning on the north shore at a point 36° 13.3298' N - 76° 08.2878' W; running southerly to the south shore to a point 36° 13.0286' N - 76° 08.1820' W.
- (6) Little River - all waters of the Little River and its tributaries southeast of a line beginning on the west shore at a point 36° 12.5237' N - 76° 16.9418' W; running southeasterly to the east shore to a point 36° 12.2950' N - 76° 17.1405' W; and north of a line beginning on the west shore at a point 36° 09.6537' N - 76° 15.0689' W; running northeast to the east shore to a point 36° 10.2112' N - 76° 14.0287' W.
- (7) Perquimans River - all waters of the Perquimans River and its tributaries northeast of a line beginning on the west shore at a point 36° 11.6569' N - 76° 28.0055' W; running southeasterly to the east shore to a point 36° 11.6123' N - 76° 27.9382' W; and northwest of a line beginning on the southwest shore at a point 36° 11.1512' N - 76° 27.4424' W; running northeasterly to the northeast shore to a point 36° 11.5124' N - 76° 26.7298' W.
- (8) Perquimans River Area:
- (a) Walter's Creek - northeast of a line beginning on the north shore at a point 36° 11.1305' N - 76° 27.9185' W; running southeasterly to the south shore to a point 36° 11.0224' N - 76° 27.6626' W.
- (b) Mill Creek - south of a line beginning on the west shore at a point 36° 11.9766' N - 76° 27.2511' W; running easterly to the east shore to a point 36° 11.9757' N - 76° 27.5752' W.
- (9) Yeopim River - all waters of the Yeopim River and its tributaries east of a line beginning on the north shore at a point 36° 05.4526' N - 76° 27.7651' W; running southerly to the south shore to a point on Norcum Point 36° 05.1029' N - 76° 27.7120' W; and west of a line beginning on the north shore at a point 36° 04.7426' N - 76° 24.2537' W; running southwesterly to the south shore to a point 36° 04.1137' N - 76° 24.5366' W.
- (10) Yeopim River Area, Yeopim Creek - south of a line beginning on the west shore at a point 36° 04.7206' N - 76° 24.8396' W; running easterly to the east shore to a point 36° 04.7426' N - 76° 24.2536' W.
- (11) Edenton Bay - all waters of Edenton Bay and its tributaries west of a line beginning on the north shore at a point 36° 03.3757' N - 76° 36.3629' W; running southerly to the south shore to a point 36° 03.3551' N - 76° 36.3574' W; and north of a line beginning on the west shore at a point 36° 02.1767' N - 76° 38.4058' W; running easterly to the east shore to a point 36° 02.0299' N - 76° 36.0445' W; and east of a line beginning on the west shore at a point 36° 03.2819' N - 76° 37.0138' W; running northeasterly to the east shore to a point 36° 03.4185' N - 76° 36.6783' W.
- (12) Chowan River - all waters of the Chowan River and tributaries northwest of a line beginning on the west shore at a point 36° 02.3162' N - 76° 42.4896' W; running northeasterly to the east shore to a point 36° 03.1013' N - 76° 40.8732' W; and south of a line beginning on the west shore at a point 36° 32.6293' N - 76° 55.3564' W; and running to the east shore to a point 36° 32.6284' N - 76° 55.1757' W.
- (13) Chowan River Area, Meherrin River - all waters of the Meherrin River and tributaries west of a line beginning on the north shore at a point 36° 25.9937' N - 76° 56.8884' W; running southerly to the south shore to a point 36° 25.7926' N - 76° 56.8966' W; and south of a line beginning on the west shore at a point 36° 32.7867' N - 77° 09.8885' W; running easterly to the east shore to a point 36° 32.7807' N - 77° 09.8565' W.
- (14) Cashie River - all waters of the Cashie River and tributaries east of a line beginning on the north shore at a point 35° 54.7865' N - 76° 49.0521' W; running southerly to the south shore at a point 35° 54.6691' N - 76° 49.0553' W; west of a line beginning on the west shore at a point 35° 56.2934' N - 76° 44.1769' W; running easterly to the north shore to a point on the north shore of an island in the mouth of the river 35° 56.2250' N - 76° 43.9265' W; west of a line beginning on the south shore at a point of an island in the mouth of the river 35° 56.1254' N - 76° 43.9846' W; running southerly to the south shore to a point 35° 56.0650' N - 76° 43.9599' W.
- (15) Middle River - all waters of the Middle River southwest of a line beginning on the west shore at a point 35° 55.4000' N - 76° 43.8259' W; running southeasterly to the east shore to a point 35° 55.3977' N - 76° 43.6797' W.

- (16) Eastmost River - all waters of the Eastmost River and its tributaries south of a line beginning on the west shore at a point 35° 56.5024' N - 76° 42.4877' W; running westerly to the east shore to a point 35° 56.4070' N - 76° 42.7647' W.
- (17) Roanoke River - all waters of the Roanoke River and tributaries south of a line beginning on the west shore at a point 35° 56.5068' N - 76° 41.8858' W; running easterly to the east shore to a point 35° 56.5324' N - 76° 41.5896' W; and southeast of a line beginning on the west shore at a point 36° 12.5264' N - 77° 23.0223' W; running northeasterly to the east shore along the south side of the Highway 258 Bridge to a point 36° 12.5674' N - 77° 22.9724' W.
- (18) Roanoke River Area:
- (a) Warren Neck Creek - all waters of Warren Neck Creek and its tributaries west of a line beginning on the northwest shore at a point 35° 52.1820' N - 76° 47.4855' W; running southerly to the southeast shore to a point 35° 52.1448' N - 76° 47.4237' W.
  - (b) Thoroughfare - all waters of the Thoroughfare south of a line beginning on the west shore at a point 35° 54.0510' N - 76° 48.1206' W; running easterly to the east shore to a point 35° 54.0684' N - 76° 48.0613' W; and north of a line beginning on the west shore at a point 35° 53.2842' N - 76° 48.8650' W; running easterly to the east shore to a point 35° 55.2800' N - 76° 48.8077' W.
  - (c) Devils Gut - all waters of Devils Gut and its tributaries northwest of a line beginning on the west shore at a point 35° 49.5300' N - 76° 54.2209' W; running easterly to the east shore to a point 35° 49.5486' N - 76° 54.1703' W.
  - (d) Conine Creek - all waters of Conine Creek and its tributaries west of a line beginning on the north shore at a point 35° 52.9752' N - 76° 58.0474' W; running southwest to the south shore to a point 35° 52.9776' N - 76° 57.9958' W.
- (19) Scuppernong River - all waters of the Scuppernong River and tributaries southeast of a line beginning on the northeast shore at a point 35° 56.7196' N - 76° 18.8964' W; running southwest to the southwest shore to a point 35° 56.3351' N - 76° 19.6609' W; and north of a line beginning on the west shore at a point 35° 54.0158' N - 76° 15.4605' W; running easterly to the east shore to a point 35° 54.0406' N - 76° 15.3007' W.
- (20) Alligator River - all waters of the Alligator River and tributaries east of a line beginning on the north shore at Cherry Ridge Landing at a point 35° 42.2172' N - 76° 08.4686' W; running southerly to the south shore to a point 35° 42.1327' N - 76° 08.5002' W; and south of a line beginning on the west shore at a point 35° 57.4252' N - 76° 00.8704' W; running easterly to the east shore to a point 35° 57.5494' N - 75° 56.8268' W.
- (21) Alligator River Area, the Frying Pan - all waters of the Frying Pan and its tributaries west of a line beginning on the north shore at a point 35° 46.0777' N - 76° 03.3439' W; running southerly to the south shore to a point 35° 45.6011' N - 76° 03.3692' W.
- (22) Neuse River - all waters of the Neuse River and its tributaries northwest of a line beginning on the west shore at a point 35° 08.8723' N - 77° 04.6700' W; running northeasterly to the east shore to a point 35° 09.1032' N - 77° 04.3355' W; and southeast of a line at Pitch Kettle Creek beginning on the north shore at a point 35° 16.9793' N - 77° 15.5529' W; running south to the south shore to a point 35° 16.9237' N - 77° 15.5461' W.
- (23) Neuse River Area:
- (a) Smith Creek - north of a line beginning on the west shore at a point 35° 02.2439' N - 76° 42.3035' W; running easterly to the east shore to a point 35° 02.2392' N - 76° 42.1910' W.
  - (b) Kershaw Creek - north of a line beginning on the west shore at a point 35° 02.4197' N - 76° 43.7886' W; running easterly to the east shore to a point 35° 02.4218' N - 76° 43.7367' W.
- (24) White Oak River - all waters north of a line beginning at a point on the west shore 34° 46.0728' N - 77° 08.9657' W; running easterly to a point on the east shore 34° 46.1431' N - 77° 08.8907' W; running north to the Coastal - Inland Fishing Waters boundary line beginning at a point on the west shore 34° 48.1466' N - 77° 11.4711' W; running northeasterly to a point on the east shore 34° 48.1620' N - 77° 11.4244' W.
- (25) Cape Fear River - all waters north of a line beginning at a point on the west shore 34° 07.7034' N - 77° 57.3431' W; running easterly to a point on the east shore 34° 08.0518' N - 77° 55.7626' W; running north to the Joint - Inland Fishing Waters boundary on the following rivers:
- (a) Cape Fear River - at a line beginning at a point on the west shore 34° 24.2628' N - 78° 17.6390' W; running northeasterly along the Lock and Dam No. 1 to a point on the east shore 34° 24.2958' N - 78° 17.5634' W.
  - (b) Black River - at a line beginning at a point on the north shore 34° 22.0783' N - 78° 04.4123' W; running southeasterly to a point on the south shore 34° 21.9950' N - 78° 04.2864' W.
  - (c) Northeast Cape Fear River - at a line beginning at a point on the west side 34° 26.5658' N - 77° 50.0871' W; running northeasterly along the southern side of the Highway 210 Bridge to a point on the east side 34° 26.6065' N - 77° 49.9955' W.

*History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;  
Eff. December 1, 2007;  
Amended Eff. May 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**15A NCAC 03R .0116 DESIGNATED SEED OYSTER MANAGEMENT AREAS**

The Seed Oyster Management Areas referenced in 15A NCAC 03K .0208 are delineated in the following coastal water areas:

- (1) Croatan Sound and tributaries: Cedar Bush Bay Seed Oyster Management Area, within the area described by a line beginning at a point 35° 50.0383' N - 75° 40.0712' W; running easterly to a point 35° 50.2328' N - 75° 39.4930' W; running southeasterly to a point 35° 49.3831' N - 75° 39.1521' W; running southwesterly to a point 35° 48.8000' N - 75° 39.5000' W; running westerly to a point 35° 48.6333' N - 75° 40.7000' W; running northerly to a point 35° 49.7000' N - 75° 40.6333' W; running northeasterly back to the point of beginning;
- (2) Croatan and Roanoke sounds and tributaries: Wanchese Marshes Seed Oyster Management Area, within an area described by a line beginning at a point 35° 49.0000' N - 75° 38.3000' W; running northerly to a point 35° 49.2243' N - 75° 38.3000' W; running easterly to a point 35° 49.0806' N - 75° 37.5293' W; running easterly to a point 35° 49.2893' N - 75° 37.0335' W; running northeasterly to a point 35° 49.5541' N - 75° 36.9715' W; running southerly to a point 35° 49.0000' N - 75° 36.5500' W; running southwesterly to a point 35° 48.1500' N - 75° 36.9500' W; running westerly to a point 35° 48.1000' N - 75° 37.6333' W; running northwesterly to the point of beginning;
- (3) Pamlico Sound and tributaries: Bay River Seed Oyster Management Area, within an area described by a line beginning at a point 35° 10.7670' N - 76° 36.7000' W off Spencer Point; running southeasterly to a point 35° 10.5330' N - 76° 36.4670' W; running westerly to a point 35° 10.4670' N - 76° 36.6500' W; running northwesterly to a point 35° 10.8000' N - 76° 36.9170' W, running easterly to the point of beginning;
- (4) White Oak River: White Oak River Seed Oyster Management Area, within an area described by a line beginning at a point 34° 43.0774' N - 77° 06.8610' W on the White Oak River/Stevens Creek polluted area line; running northeasterly to a point 34° 43.4006' N - 77° 06.1293' W on the east shore; running southerly along the shoreline to a point 34° 43.0755' N - 77° 06.1187' W; running southwesterly to a point 34° 42.8800' N - 77° 06.7975' W on the White Oak River/Stevens Creek polluted area line; running northerly to the point of beginning;
- (5) New River area:
  - (a) Possum Bay Seed Oyster Management Area, within an area described by a line beginning at a point 34° 32.1256' N - 77° 21.3781' W; running northeasterly to a point 34° 32.2773' N - 77° 21.1194' W; running northwesterly to a point 34° 32.3365' N - 77° 21.1720' W; running southwesterly to a point 34° 32.2068' N - 77° 21.3958' W; running south to the point of beginning; and
  - (b) Swan Point Seed Oyster Management Area, within an area described by a line beginning at a point 34° 32.9488' N - 77° 21.6843' W; running southerly to a point 34° 32.9040' N - 77° 21.6704' W; running northeasterly to a point 34° 33.0376' N - 77° 21.5339' W; running northwesterly to a point 34° 33.0693' N - 77° 21.5923' W; running southwesterly to the point of beginning; and
- (6) Topsail Sound and tributaries:
  - (a) Virginia Creek Seed Oyster Management Area, within an area described by a line beginning at a point 34° 25.4620' N - 77° 36.0074' W on the north shore; running southerly to a point 34° 25.1346' N - 77° 36.0640' W on the south shore; running easterly and southerly along the shoreline to a point 34° 24.9438' N - 77° 35.5325' W on Sloop Point; running northeasterly to a point 34° 25.0988' N - 77° 35.2920' W on the north shore; running northwesterly along the shoreline to the point of beginning; and
  - (b) Topsail Sound Seed Oyster Management Area, within an area described by a line beginning at a point 34° 24.6555' N - 77° 35.6012' W across the IWW from Sloop Point; running southeasterly to a point 34° 24.3677' N - 77° 35.2015' W; running northeasterly to a point 34° 24.5260' N - 77° 35.1070' W; running northwesterly to a point 34° 24.8690' N - 77° 35.2872' W; running southwesterly to the point of beginning.

*History Note: Authority G.S. 113-134; 113-182; 113-203; 143B-289.52; Eff. October 1, 2008; Amended Eff. April 1, 2014; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**15A NCAC 03R .0117 OYSTER SANCTUARIES**

The Oyster Sanctuaries referenced in 15A NCAC 03K .0209 are delineated in the following coastal water areas:

- (1) Croatan Sound area: within the area described by a line beginning at a point 35° 48.2842' N - 75° 38.3360' W; running southerly to a point 35° 48.1918' N - 75° 38.3360' W; running westerly to a point 35° 48.1918' N - 75° 38.4575' W; running northerly to a point 35° 48.2842' N - 75° 38.4575' W; running easterly to the point of beginning.
- (2) Pamlico Sound area:
  - (a) Crab Hole: within the area described by a line beginning at a point 35° 43.6833' N - 75° 40.5083' W; running southerly to a point 35° 43.5000' N - 75° 40.5083' W; running westerly to a point 35° 43.5000' N - 75° 40.7500' W; running northerly to a point 35° 43.6833' N - 75° 40.7500' W; running easterly to the point of beginning.
  - (b) Gibbs Shoal: within the area described by a line beginning at a point 35° 27.3220' N - 75° 55.9590' W; running southerly to a point 35° 27.1340' N - 75° 55.9590' W; running westerly to a point 35° 27.1340' N - 75° 56.1900' W; running northerly to a point 35° 27.3220' N - 75° 56.1900' W; running easterly to the point of beginning.
  - (c) Deep Bay: within the area described by a line beginning at a point 35° 22.9126' N - 76° 22.1612' W; running southerly to a point 35° 22.7717' N - 76° 22.1612' W; running westerly to a point 35° 22.7717' N - 76° 22.3377' W; running northerly to a point 35° 22.9126' N - 76° 22.3377' W; running easterly to the point of beginning.
  - (d) West Bluff: within the area described by a line beginning at a point 35° 18.3000' N - 76° 10.0890' W; running southerly to a point 35° 18.1460' N - 76° 10.0890' W; running westerly to a point 35° 18.1460' N - 76° 10.2760' W; running northerly to a point 35° 18.3000' N - 76° 10.2760' W; running easterly to the point of beginning.
  - (e) Clam Shoal: within the area described by a line beginning at a point 35° 17.4800' N - 75° 37.1800' W; running southerly to a point 35° 17.1873' N - 75° 37.1800' W; running westerly to a point 35° 17.1873' N - 75° 37.4680' W; running northerly to a point 35° 17.4800' N - 75° 37.4680' W; running easterly to the point of beginning.
  - (f) Middle Bay: within the area described by a line beginning at a point 35° 14.1580' N - 76° 30.1780' W; running southerly to a point 35° 14.1150' N - 76° 30.1780' W; running westerly to a point 35° 14.1150' N - 76° 30.3320' W; running northerly to a point 35° 14.1580' N - 76° 30.3320' W; running easterly to the point of beginning.
  - (g) Ocracoke area: within the area described by a line beginning at a point 35° 10.8150' N - 75° 59.6320' W; running southerly to a point 35° 10.6320' N - 75° 59.6320' W; running westerly to a point 35° 10.6320' N - 75° 59.8530' W; running northerly to a point 35° 10.8150' N - 75° 59.8530' W; running easterly to the point of beginning.
  - (h) West Bay: within the area described by a line beginning at a point 34° 58.8517' N - 76° 21.3632' W; running southerly to a point 34° 58.7661' N - 76° 21.3632' W; running westerly to a point 34° 58.7661' N - 76° 21.4735' W; running northerly to a point 34° 58.8517' N - 76° 21.4735' W; running easterly to the point of beginning.
- (3) Neuse River: within the area described by a line beginning at a point 35° 00.4742' N - 76° 31.9550' W; running southerly to a point 35° 00.3920' N - 76° 31.9550' W; running westerly to a point 35° 00.3920' N - 76° 32.0550' W; running northerly to a point 35° 00.4742' N - 76° 32.0550' W; running easterly to the point of beginning.

*History Note: Authority G.S. 113-134; 113-182; 113-201; 113-204; 143B-289.52; Eff. October 1, 2008; Amended Eff. April 1, 2011; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**15A NCAC 03R .0118 EXEMPTED CRAB POT ESCAPE RING AREAS**

The areas referenced in 15A NCAC 03J .0301(g) are delineated in the following coastal fishing waters:

- (1) Pamlico Sound - within the area described by a line beginning at a point 35° 43.7457' N - 75° 30.7014' W on the south shore of Eagles Nest Bay on Pea Island; running westerly to a point 35° 42.9500' N - 75°

- 34.1500' W; running southerly to a point 35° 39.3500' N - 75° 34.4000' W; running southeasterly to a point 35° 35.8931' N - 75° 31.1514' W in Chicamacomico Channel near Beacon "ICC"; running southerly to a point 35° 28.5610' N - 75° 31.5825' W on Gull Island; running southwesterly to a point 35° 22.8671' N - 75° 33.5851' W in Avon Channel near Beacon "1AV"; running southwesterly to a point 35° 18.9603' N - 75° 36.0817' W in Cape Channel near Beacon "2"; running westerly to a point 35° 16.7588' N - 75° 44.2554' W in Rollinson Channel near Beacon "42RC"; running southwesterly to a point 35° 14.0337' N - 75° 45.9643' W southwest of Oliver Reef near the quick-flashing beacon; running westerly to a point 35° 09.3650' N - 76° 00.6377' W in Big Foot Slough Channel near Beacon "14BF"; running southwesterly to a point 35° 08.4523' N - 76° 02.6651' W in Nine Foot Shoal Channel near Beacon "9"; running westerly to a point 35° 07.1000' N - 76° 06.9000' W; running southwesterly to a point 35° 01.4985' N - 76° 11.4353' W near Beacon "HL"; running southwesterly to a point 35° 00.2728' N - 76° 12.1903' W near Beacon "1CS"; running southerly to a point 34° 59.5027' N - 76° 12.3204' W in Wainwright Channel immediately east of the northern tip of Wainwright Island; running southwesterly to a point 34° 59.3610' N - 76° 12.6040' W on Wainwright Island; running easterly to a point at 34° 58.7853' N - 76° 09.8922' W on Core Banks; running easterly and northerly along the shoreline across the inlets following the COLREGS Demarcation line up the Outer Banks to the point of beginning.
- (2) Newport River, from April 1 through June 15 - within the area described by a line beginning at a point 34° 49.5080' N - 76° 41.4440' W; running westerly along the south side of the Highway 101 Bridge over Core Creek to a point on the west shore 34° 49.5260' N - 76° 41.5130' W; running along the shoreline of Newport River and its tributaries to a point 34° 49.3050' N - 76° 44.2350' W; running westerly along the south side of the Highway 101 Bridge over Harlowe Canal to a point on the west shore 34° 49.2980' N - 76° 44.2610' W; running along the shoreline of Newport River and its tributaries to a point 34° 45.2478' N - 76° 46.4479' W; running southerly along the Inland-Coastal Waters boundary line to a point 34° 45.1840' N - 76° 46.4488' W; running along the shoreline of Newport River and its tributaries to a point 34° 43.2520' N - 76° 41.6840' W; running easterly along the north side of the Highway 70 Bridge over Newport River to a point 34° 43.2840' N - 76° 41.2200' W; running along the shoreline of Newport River and its tributaries to a point 34° 43.3530' N - 76° 40.2080' W; running easterly across Gallant Channel to a point 34° 43.3521' N - 76° 40.0871' W; running along the shoreline of Newport River and its tributaries back to the point of beginning.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
 Eff. April 1, 2014;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

## SECTION .0200 – FISHERY MANAGEMENT AREAS

### 15A NCAC 03R .0201 STRIPED BASS MANAGEMENT AREAS

- (a) The Albemarle Sound Management Area is designated as Albemarle Sound and all its joint and inland water tributaries, (except for the Roanoke, Middle, Eastmost and Cashie rivers), Currituck, Roanoke and Croatan sounds and all their joint and inland water tributaries, including Oregon Inlet, north of a line beginning at a point 35° 48.5015' N - 75° 44.1228' W on Roanoke Marshes Point, running southeasterly to a point 35° 44 .1710' N - 75° 31 .0520' W on the north point of Eagle Nest Bay.
- (b) The Roanoke River Management Area is designated as Roanoke River and its joint and inland tributaries, including Middle, Eastmost and Cashie rivers, up to the Roanoke Rapids dam.
- (c) The Central/Southern Management Area is designated as all internal, coastal, joint, and contiguous inland waters south of a line beginning at a point 35° 48.5015' N - 75° 44.1228' W on Roanoke Marshes Point, running southeasterly to a point 35° 44 .1710' N - 75° 31 .0520' W on the north point of Eagle Nest Bay, to the South Carolina line.

*History Note:* Authority G.S. 113-132; 113-134; 113-182; 143B-289.52;  
 Eff. October 1, 2004;  
 Amended Eff. June 1, 2013;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

### 15A NCAC 03R .0202 RIVER HERRING MANAGEMENT AREAS

- (a) The Albemarle Sound River Herring Management Area referenced in 15A NCAC 03J .0209 is defined as the Coastal and Joint Fishing Waters of Albemarle, Currituck, Roanoke, Croatan and Pamlico sounds and all their joint water tributaries north of a line beginning on the west shore at a point 35° 48.5015' N - 75° 44.1228' W on Roanoke Marshes Point; running southeasterly to the east shore to a point 35° 44.1710' N - 75° 31.0520' W on the north point of Eagles Nest Bay.

(b) The Chowan River River Herring Management Area referenced in 15A NCAC 03J .0209 is defined as the area northwest of a line beginning on the west shore at a point 35° 59.9267' N - 76° 41.0313' W on Black Walnut Point; running northeasterly to the east shore to a point 36° 02.2140' N - 76° 39.3240' W on Reedy Point, to the North Carolina/Virginia state line; including the Meherrin River.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. May 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

**SUBCHAPTER 03S – ECONOMIC ASSISTANCE TO THE FISHING INDUSTRY**

**SECTION .0100 – ECONOMIC ASSISTANCE PROGRAMS**

**15A NCAC 03S .0101 GENERAL**

This Subchapter establishes the process for determining eligibility and distributing federal or state funds for economic assistance to the fishing industry.

*History Note:* Authority G.S. 113-226, 143B - 289.52 (d);  
Temporary Adoption Eff. July 1, 2003;  
Temporary Rule Expired Eff. March 27, 2004;  
Eff. October 1, 2004;  
Expired Eff. February 1, 2018 pursuant to G.S. 150B-21.3A.

**15A NCAC 03S .0102 GRANTS TO COMMERCIAL SHRIMPING INDUSTRY FOR ECONOMIC LOSSES DUE TO FOREIGN IMPORTED SHRIMP**

**15A NCAC 03S .0103 GRANTS TO COMMERCIAL BLUE CRABBING INDUSTRY**

*History Note:* Authority G.S. 113-226; 143B-289.52(d);  
Temporary Adoption Eff. July 1, 2003;  
Emergency Adoption Eff. October 14, 2003;  
Emergency Adoption Expired January 2, 2004;  
Temporary Rule Expired March 27, 2004;  
Eff. November 1, 2004;  
Expired Eff. February 1, 2018 pursuant to G.S. 150B-21.3A.

**NORTH CAROLINA SESSION LAW TRANSFERRING SHELLFISH SANITATION AND RECREATIONAL WATER QUALITY TO THE DIVISION OF MARINE FISHERIES UNDER A TYPE I TRANSFER AND GENERAL STATUTE DEFINING TYPE I TRANSFER**

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**SESSION LAW 2011-145  
HOUSE BILL 200**

AN ACT TO SPUR THE CREATION OF PRIVATE SECTOR JOBS; REORGANIZE AND REFORM STATE GOVERNMENT; MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS AND INSTITUTIONS; AND TO ENACT BUDGET RELATED AMENDMENTS.

The General Assembly of North Carolina enacts:

**PART I. INTRODUCTION AND TITLE OF ACT**

**TITLE**

**SECTION 1.1.** This act shall be known as the "Current Operations and Capital Improvements Appropriations Act of 2011."

**INTRODUCTION**

**SECTION 1.2.** The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the State Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

...

**PART XIII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**ABOLISH, TRANSFER TO OTHER DEPARTMENTS, OR CONSOLIDATE WITHIN DENR ALL ENVIRONMENTAL HEALTH PROGRAMS UNDER DENR**

...

**SECTION 13.3.(g)** The Shellfish Sanitation and Recreational Water Quality Section of the Division of Environmental Health of the Department of Environment and Natural Resources shall be transferred to the Division of Marine Fisheries of the Department of Environment and Natural Resources with all the elements of a Type I transfer, as defined by G.S. 143A-6.

...

**SECTION 13.3.(ppp)** Part 3 of Article 8 of Chapter 130A of the General Statutes is repealed, except G.S. 130A-230 is recodified as G.S. 113-221.2 in Article 17 of Chapter 113 of the General Statutes.

...

**SECTION 13.3.(rrr)** Part 3A of Article 8 of Chapter 130A of the General Statutes is repealed, except G.S. 130A-233.1 is recodified as G.S. 113-221.3 in Article 17 of Chapter 113 of the General Statutes.

...

**SECTION 13.3.(ttt)** G.S. 130A-21(c) is recodified as a new section G.S. 113-221.4 in Article 17 of Chapter 113 of the General Statutes to be entitled "Embargo."

...

**SECTION 13.3.(vvv)** The Revisor of Statutes shall make the conforming statutory changes necessary to reflect the transfers under this section. The Revisor of Statutes may correct any reference in the General Statutes to the statutes that are recodified by this section and make any other conforming changes necessitated by this section.

**SECTION 13.3.(www)** The transfers under this section become effective July 1, 2011, and funds transferred shall be net of any changes enacted by this section. Any references in this act to any program, office, section, division, or department that is transferred under this section shall be construed to be consistent with the transfer under this section.

...

**EFFECTIVE DATE**

**SECTION 32.6.** Except as otherwise provided, this act becomes effective July 1, 2011.  
In the General Assembly read three times and ratified this the 4<sup>th</sup> day of June, 2011.

s/ Richard Y. Stevens  
Presiding Officer of the Senate

s/ Thom Tillis  
Speaker of the House of Representatives

VETO Beverly E. Perdue  
Governor

Became law notwithstanding the objections of the Governor, 2:48 p.m. this 15<sup>th</sup> day of June, 2011.

s/ Sarah Clapp  
Senate Principal Clerk

**G.S. 143A-6. Types of transfers.**

- (a) Under this Chapter, a Type I transfer means the transferring of all or part of an existing agency to a principal department established by this Chapter. When all or part of any agency is transferred to a principal department under a Type I transfer, its statutory authority, powers, duties, and functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and purchasing, are transferred to the principal department.  
When any agency, or part thereof, is transferred by a Type I transfer to a principal department under the provisions of this Chapter, all its prescribed powers, duties, and functions, including but not limited to rule making, regulation, licensing, and promulgation of rules, rates, regulations, and standards, and the rendering of findings, orders, and adjudications are transferred to the head of the principal department into which the agency, or part thereof, has been transferred.
- (b) Under this Chapter, a Type II transfer means the transferring intact of an existing agency, or part thereof, to a principal department established by this Chapter. When any agency, or part thereof, is transferred to a principal department under a Type II transfer, that agency, or part thereof, shall be administered under the direction and supervision of that principal department, but shall exercise all its prescribed statutory powers independently of the head of the principal department, except that under a Type II transfer the management functions of any transferred agency, or part thereof, shall be performed under the direction and supervision of the head of the principal department.
- (c) Whenever the term "management functions" is used it shall mean planning, organizing, staffing, directing, coordinating, reporting and budgeting. (1971, c. 864, s. 1.)

**NORTH CAROLINA ADMINISTRATIVE CODE  
TITLE 15A – ENVIRONMENTAL QUALITY  
CHAPTER 18 – ENVIRONMENTAL HEALTH**

**SUBCHAPTER 18A – SANITATION**

**SECTION .0100 – HANDLING: PACKING: AND SHIPPING OF CRUSTACEA MEAT**

Rules .0101 - .0133 of Title 15A Subchapter 18A of the North Carolina Administrative Code (T15A.18A .0101 - .0133), has been transferred and recodified from Rules .0701 - .0733 Title 10 Subchapter 10B of the North Carolina Administrative Code (T10.10B .0701 - .0733), effective April 4, 1990.

<b>15A NCAC 18A .0101</b>	<b>DEFINITIONS</b>
<b>15A NCAC 18A .0102</b>	<b>REQUIREMENTS FOR OPERATION</b>
<b>15A NCAC 18A .0103</b>	<b>PLANTS AND GROUNDS</b>
<b>15A NCAC 18A .0104</b>	<b>FLOORS, WALLS, AND CEILINGS</b>
<b>15A NCAC 18A .0105</b>	<b>ANIMAL AND VECTOR CONTROL MEASURES</b>
<b>15A NCAC 18A .0106</b>	<b>LIGHTING</b>
<b>15A NCAC 18A .0107</b>	<b>VENTILATION</b>
<b>15A NCAC 18A .0108</b>	<b>WATER SUPPLY</b>
<b>15A NCAC 18A .0109</b>	<b>PLUMBING AND RELATED FACILITIES</b>
<b>15A NCAC 18A .0110</b>	<b>SEWAGE DISPOSAL</b>
<b>15A NCAC 18A .0111</b>	<b>CONSTRUCTION OF UTENSILS AND EQUIPMENT</b>
<b>15A NCAC 18A .0112</b>	<b>GENERAL CLEANLINESS</b>
<b>15A NCAC 18A .0113</b>	<b>CLEANING OF BUILDING AND EQUIPMENT</b>
<b>15A NCAC 18A .0114</b>	<b>BACTERICIDAL TREATMENT OF UTENSILS AND EQUIPMENT</b>
<b>15A NCAC 18A .0115</b>	<b>STORAGE OF EQUIPMENT</b>
<b>15A NCAC 18A .0116</b>	<b>RECEIVING OF CRUSTACEA</b>
<b>15A NCAC 18A .0117</b>	<b>COOKING</b>
<b>15A NCAC 18A .0118</b>	<b>COOLING</b>
<b>15A NCAC 18A .0119</b>	<b>PICKING AND PACKING</b>
<b>15A NCAC 18A .0120</b>	<b>FREEZING</b>
<b>15A NCAC 18A .0121</b>	<b>CRUSTACEA SCRAP DISPOSAL</b>
<b>15A NCAC 18A .0122</b>	<b>SINGLE-SERVICE CONTAINERS</b>
<b>15A NCAC 18A .0123</b>	<b>REFRIGERATION</b>
<b>15A NCAC 18A .0124</b>	<b>HEALTH AND CLEANLINESS OF PERSONNEL</b>
<b>15A NCAC 18A .0125</b>	<b>SUPERVISION</b>
<b>15A NCAC 18A .0126</b>	<b>MICROBIOLOGICAL STANDARDS</b>
<b>15A NCAC 18A .0127</b>	<b>PASTEURIZATION PROCESS CONTROLS - THERMOMETERS</b>
<b>15A NCAC 18A .0128</b>	<b>PREPARATION OF CRUSTACEA MEAT</b>
<b>15A NCAC 18A .0129</b>	<b>PASTEURIZATION OF CRUSTACEA MEAT</b>
<b>15A NCAC 18A .0130</b>	<b>LABELING OF PASTEURIZED CRUSTACEA MEAT</b>
<b>15A NCAC 18A .0131</b>	<b>SEVERABILITY</b>
<b>15A NCAC 18A .0132</b>	<b>APPEALS PROCEDURE</b>

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. September 1, 1991; September 1, 1990; December 1, 1987; July 1, 1985, 1980;  
Repealed Eff. October 1, 1992.

**15A NCAC 18A .0133 REFERENCE**

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1977;  
Readopted Eff. December 5, 1977;  
Amended Eff. July 1, 1985;  
Repealed Eff. September 1, 1990.

**15A NCAC 18A .0134 DEFINITIONS**

The following definitions shall apply throughout this Section; however, nothing in this Section shall be construed as expanding or restricting the definitions in G.S. 106-129 and G.S. 106-130:

- (1) "Adulterated" as used in G.S. 106-129 means the following:
  - (a) Any cooked crustacea or crustacea meat that does not comply with these Rules;
  - (b) Any cooked crustacea or crustacea meat which exceeds the bacteriological standards in Rule .0182 of this Section;
  - (c) Any cooked crustacea or crustacea meat which has been deemed to be an imminent hazard;
- (2) "Code date" means the date conspicuously placed on the container to indicate the date that the product was packed.
- (3) "Cook" means to prepare or treat raw crustacea by heating.
- (4) "Critical control point" means a point, step or procedure in a food process at which control can be applied, and a food safety hazard can as a result be prevented, eliminated or reduced to acceptable levels.
- (5) "Critical limit" means the maximum or minimum value to which a physical, biological or chemical parameter must be controlled at a critical control point to prevent, eliminate or reduce to an acceptable level the occurrence of the identified food safety hazard.
- (6) "Crustacea meat" means the meat of crabs, lobster, shrimp or crayfish.
- (7) "Division" means the Division of Environmental Health or its authorized agent.
- (8) "Food-contact surface" means the parts of equipment, including auxiliary equipment, which may be in contact with the food being processed, or which may drain into the portion of equipment with which food is in contact.
- (9) "Food safety hazard" means any biological, chemical or physical property that may cause a food to be unsafe for human consumption.
- (10) "Foreign" means any place or location outside the United States.
- (11) "Fresh crustacea" means a live, raw or frozen raw crab, lobster, shrimp or crayfish which shows no decomposition.
- (12) "HACCP plan" means a written document that delineates the formal procedures a dealer follows to implement food safety controls.
- (13) "Hazard analysis critical control point (HACCP)" means a system of inspection, control and monitoring measures initiated by a dealer to identify microbiological, chemical or physical food safety hazards which are likely to occur in shellfish products produced by the dealer.
- (14) "Imminent hazard" means a situation which is likely to cause an immediate threat to human life, an immediate threat of serious physical injury, an immediate threat of serious physical adverse health effects, or a serious risk of irreparable damage to the environment if no immediate action is taken.
- (15) "Internal temperature" means the temperature of the product as opposed to the ambient temperature.
- (16) "Misbranded" as used in G.S. 106-130 means any container of cooked crustacea or crustacea meat which is not labeled in compliance with these Rules.
- (17) "Operating season" means the season of the year during which a crustacea product is processed.
- (18) "Pasteurization" means the process of heating every particle of crustacea meat in a hermetically-sealed 401 by 301 one pound container to a temperature of at least 185°F (85°C) and holding it continuously at or above this temperature for at least one minute in properly operated equipment. The term includes any other process which has been found equally effective by the Division.
- (19) "Pasteurization date" means a code conspicuously placed on the container to indicate the date that the product was pasteurized.
- (20) "Person" means an individual, corporation, company, association, partnership, unit of government or other legal entity.
- (21) "Processing" means any of the following operations when carried out in conjunction with the cooking of crustacea or crustacea meat: receiving, refrigerating, air-cooling, picking, packing, repacking, thermal processing, or pasteurizing.
- (22) "Repacker" means a facility which repacks cooked crustacea meat into other containers.
- (23) "Responsible person" means the individual present in a cooked crustacea facility who is the apparent supervisor of the cooked crustacea facility at the time of the inspection. If no individual is the apparent supervisor, then any employee is the responsible person.
- (24) "Sanitize" means a bactericidal treatment by a process which meets the temperature and chemical concentration levels in 15A NCAC 18A .2619.
- (25) "Standardization report" means a report of tests which show that a piece of equipment can produce time/temperature results as required by these Rules.
- (26) "Thermal processing" means the heating of previously cooked crustacea or crustacea meat to a desired temperature for a specified time in properly operated equipment.

*History Note:* Authority G.S. 106-129; 106-130; 130A-230;  
Eff. October 1, 1992;  
Amended Eff. August 1, 2000; August 1, 1998; February 1, 1997.

**15A NCAC 18A .0135 PERMITS**

- (a) No person shall operate a processing facility without a permit issued by the Division.
- (b) No person shall operate a repacker facility without a repacker permit issued by the Division.
- (c) Application for a permit shall be submitted in writing on an application form available from the Division.
- (d) No permit shall be issued by the Division until an inspection shows that the facility and equipment comply with applicable rules of this Section.
- (e) A permit issued to one person is not transferrable to another person.
- (f) The permit shall be posted in a conspicuous place in the facility. All permits shall expire on March 31 of each year.
- (g) Plans and specifications for proposed new construction, expansion of operations or changes in operating processes shall be submitted to the Division for review and approval prior to beginning construction.
- (h) A permit may be revoked or suspended pursuant to G.S. 130A-23.
- (i) The owner or responsible person shall sign the completed inspection sheet to acknowledge receipt of the inspection sheet.

*History Note:* Authority G.S. 130A-23; 130A-230;  
Eff. October 1, 1992.

**15A NCAC 18A .0136 APPLICABILITY OF RULES**

The Rules in this Section shall apply to the operation of all facilities and persons permitted in Rule .0135 of this Section and all other businesses and persons that buy, sell, transport or ship cooked crustacea or crustacea meat which has not been transformed into another product. Foreign crustacea meat processed in North Carolina shall comply with all applicable Federal requirements.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992;  
Amended Eff. April 1, 1997.

**15A NCAC 18A .0137 GENERAL REQUIREMENTS FOR OPERATION**

- (a) During the operating season the processing portion of the facility shall be used for no purpose other than the processing of cooked crustacea or crustacea meat.
- (b) Retail sales of cooked crustacea or crustacea meat shall not be made from any processing portion of the facility.
- (c) Accurate records of all purchases and sales of crustacea and crustacea meat shall be maintained for one year. The records shall be available for inspection by the Division.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992;  
Amended Eff. April 1, 1997.

**15A NCAC 18A .0138 SUPERVISION**

- (a) The owner or responsible person shall supervise the processing operation and be responsible for compliance with the rules of this Section.
- (b) No unauthorized persons shall be allowed in the facility during the periods of operation.
- (c) The owner or responsible person shall observe employees daily to ensure compliance with Rule .0153 of this Section.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992.

**15A NCAC 18A .0139 FACILITY FLOODING**

If the facility floors are flooded, processing shall be discontinued until flood waters have receded and the facility and equipment are cleaned and sanitized. Any cooked crustacea or crustacea meat which may have been contaminated by flood waters shall be deemed adulterated and disposed of in accordance with G.S. 130A-21(c).

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992.

**15A NCAC 18A .0140 FLOORS**

Floors shall be of concrete or other equally impervious material, constructed so that they may be easily cleaned and shall be sloped so that water drains.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0141 WALLS AND CEILINGS**

- (a) Walls and ceilings shall be constructed of smooth, easily cleanable, non-corrosive, impervious material.
- (b) Insulation on cooked crustacea cooler walls shall be covered to the ceiling with a smooth, easily cleanable, non-corrosive, impervious material.
- (c) Doors and windows shall be properly fitted and maintained in good repair.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0142 LIGHTING**

- (a) Natural or artificial lighting shall be provided in all parts of the facility. Minimum lighting intensities shall be as follows:
  - (1) 50 foot-candles on working surfaces in the picking and packing rooms and areas.
  - (2) 10 foot-candles measured at a height of 30 inches above the floor throughout the rest of the processing portion of the facility.
- (b) Light bulbs within the processing portion of the facility shall be shatterproof or shielded to prevent product contamination in case of breakage.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0143 VENTILATION**

All rooms and areas shall be ventilated.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0144 INSECT CONTROL**

All outside openings shall be screened, provided with wind curtains or be provided with other methods to eliminate the entrance of insects. All screens shall be kept in good repair. All outside doors shall open outward and shall be self-closing. The use and storage of pesticides shall comply with all applicable State and Federal laws and rules.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0145 RODENT AND ANIMAL CONTROL**

Measures shall be taken to keep animals, fowl, rodents, and other vermin out of the facility. The storage and use of rodenticides shall comply with all applicable State and Federal laws and rules.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0146 PREMISES**

- (a) Premises under the control of the owner shall be kept clean at all times. Waste materials, rubbish, other articles or litter shall not be permitted to accumulate on the premises. Other items shall be properly stored.
- (b) Measures shall be taken to prevent the harborage and breeding of insects, rodents and other vermin on premises.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0147 WATER SUPPLY**

- (a) The water supply used shall be in accordance with 15A NCAC 18A .1700.
- (b) A cooked crustacea facility using a non-community water supply shall be listed with the Public Water Supply Section, Division of Environmental Health.
- (c) Water samples for bacteriological analysis shall be collected at least annually by the Division and submitted to the Laboratory Division of the Department or another laboratory certified by the Department for analysis.
- (d) Cross-connections with unapproved water supplies are prohibited. Hot and cold running water under pressure shall be provided to food preparation, utensils and handwashing areas and any other areas in which water is required for cleaning. Running water under pressure shall be provided in sufficient quantity to carry out all food preparation, utensil washing, hand washing, cleaning and other water-using operations.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0148 ICE**

- (a) Ice shall be obtained from a water supply approved by the Division pursuant to Rule .0147 of this Section and shall be stored and handled in accordance with these Rules.
- (b) All equipment used in the handling of ice shall be used for no other purpose and shall be cleaned and sanitized at least once each day the facility is in operation.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0149 PLUMBING**

- (a) Plumbing fixtures shall be located to facilitate the flow of processing activities and to prevent the splashing of water on food-contact surfaces or cooked crustacea and crustacea meat.
- (b) Fixtures, ducts and pipes shall not be suspended over working areas.
- (c) Handwash lavatories shall be located so that the supervisor can readily observe that employees wash and sanitize their hands before beginning work and after each interruption.
- (d) Handwash lavatories shall be provided in the following locations:
  - (1) Packing room or area.
  - (2) Toilet or lounge area.
  - (3) Picking room.
- (e) At least one handwash lavatory shall be provided for every 20 employees among the first 100 employees and at least one handwash lavatory shall be provided for every 25 employees in excess of the first 100 employees.
- (f) Additional lavatories required by Paragraph (e) of this Rule shall be located in the picking room.
- (g) A container shall be located near each handwash lavatory in the picking room and packing room or area to sanitize hands in a solution containing at least 100 parts per million (ppm) of available chlorine or other equally effective bactericide. A suitable testing method or equipment shall be available and regularly used to test chemical sanitizers to insure minimum prescribed strengths.
- (h) Soap and single service towels in protected dispensers, or other approved hand drying devices, shall be available near the handwash lavatories.
- (i) All pre-cool rooms, picking rooms, packing rooms or areas, and cooking areas shall be provided with hosebibs and wash down hoses. Storage racks shall be provided to keep the hoses elevated off the floor when not in use.
- (j) An automatically regulated hot-water system shall be provided to furnish a sufficient volume of hot water with a temperature of at least 130° F (54.5° C) to carry out all processing operations.
- (k) All handwash lavatories and sinks shall be equipped with mixing faucets.
- (l) A three-compartment sink with drainboards, large enough to wash the largest utensils used in the facility, shall be located in the picking room near the delivery shelf. One three-compartment sink, with drainboards, shall be provided for every 50 employees or fraction thereof.
- (m) The floor drains in coolers shall not be connected directly to a sewer in processing or repacking facilities constructed after October 1, 1992.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0150 SEWAGE DISPOSAL**

All sewage and other liquid wastes shall be disposed of in a public sewer system or in the absence of a public sewer system, by an on-site method approved by the Division or the Department of Environment, Health, and Natural Resources.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0151 TOILETS**

- (a) Toilets shall be provided in the facility; however, privies may be substituted for toilets when the conditions in Paragraph (d) of this Rule are met.
- (b) Toilet tissue shall be provided.
- (c) Toilet room doors shall not open directly into processing areas of the facility and shall be self-closing.
- (d) Only privies that meet the requirements of Section .1900 of this Subchapter and that were in place at a processing or repacking facility prior to October 1, 1992 may be used at the facility after October 1, 1992.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0152 SOLID WASTE**

- (a) Cooked crustacea scrap and other putrescible wastes shall be removed from the premises at least daily. Other solid wastes shall be removed from the premises at least weekly.
- (b) Scrap containers shall be removed from the picking room immediately after filling and placed in storage areas approved by the Division.
- (c) Scrap containers shall be non-corrosive and cleaned at least daily.
- (d) Scrap containers shall be cleaned in an area approved by the Division.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0153 PERSONAL HYGIENE**

- (a) All employees shall wash their hands with soap and running water before beginning work and again after each interruption. Signs to this effect shall be posted in conspicuous places in the facility by the owner.
- (b) All persons handling cooked crustacea or crustacea meat shall sanitize their hands before beginning work and again after each interruption.
- (c) All persons employed or engaged in the handling, picking or packing of cooked crustacea or crustacea meat shall wear clean, washable outer clothing.
- (d) Employees shall not eat food, drink nor use tobacco in any form in the areas where cooked crustacea or crustacea meat are stored, processed or handled.
- (e) Any person known to be a carrier of any disease which can be transmitted through the handling of cooked crustacea or crustacea meat or who has an infected wound or open lesion on any exposed portion of the body shall be prohibited from handling cooked crustacea or crustacea meat.
- (f) Hair restraints shall be worn by all employees who handle cooked crustacea or crustacea meat.
- (g) The arms of personnel who pick or pack cooked crustacea or crustacea meat shall be bare to the elbow or covered with an arm guard approved by the Division.
- (h) Personnel who pick and pack cooked crustacea or crustacea meat shall have clean short fingernails, free from nail polish and shall not wear jewelry other than easily cleanable rings. The use of absorbent wraps or absorbent finger cots shall not be permitted.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0154 EMPLOYEES' PERSONAL ARTICLES**

Employees' street clothing, aprons, gloves and personal articles shall not be stored in rooms or areas described in Rule .0159(b) of this Section.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0155 SUPPLY STORAGE**

Shipping containers, boxes and other supplies shall be stored in a storage room or area. The storage room or area shall be kept clean.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0156 EQUIPMENT AND UTENSIL CONSTRUCTION**

All processing equipment and utensils shall be smooth, easily cleanable, durable and kept in good repair. The food-contact surfaces of equipment, utensils and processing machinery shall be easily accessible for cleaning, non-toxic, non-corrosive, non-absorbent and free of open seams.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0157 FACILITY AND EQUIPMENT SANITATION**

(a) The walls and floors in the picking and packing areas shall be kept clean while operating and shall be sanitized at least daily and whenever there is evidence of contamination.

(b) All food-contact surfaces shall be washed, rinsed and sanitized prior to starting operation each day and whenever there is evidence of contamination.

(c) Reusable picking containers and knives shall be washed, rinsed and sanitized each time crustacea meat is delivered to the packing room.

(d) Sanitizing methods are as follows:

- (1) By steam in a steam chamber or box equipped with an indicating thermometer located in the coldest zone, by exposure to a temperature of 170° F (77° C) for at least 15 minutes or to a temperature of 200° F (93° C) for at least five minutes.
- (2) By immersion for at least one minute in the third compartment in clean hot water at a temperature of at least 170° F (77° C). A thermometer accurate to 3°F (1.5° C) shall be available to the compartment. Where hot water is used for bactericidal treatment, a booster heater that maintains a water temperature of at least 170° F (77° C) in the third compartment at all times when utensils are being washed shall be provided. The heating device may be integral with the immersion compartment.
- (3) By immersion for at least one minute in, or exposure for at least one minute to a constant flow of, a solution containing not less than 100 ppm chlorine residual. Utensils and equipment which have to be washed in place will require washing, rinsing and sanitizing.
- (4) By other equivalent products and procedures approved in 21 CFR 178.1010 "Sanitizing solutions" from the "Food Service Sanitation Manual" published by the U.S. Food and Drug Administration. 21 CFR 178.1010 is hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection, and copies may be obtained at no cost, at the Shellfish Sanitation Branch, 3441 Arendell Street, P.O. Box 769, Morehead City, North Carolina 28557. A suitable testing method or equipment shall be available and regularly used to test chemical sanitizers to insure minimum prescribed strengths.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0158 EQUIPMENT STORAGE**

Equipment and utensils that have been cleaned and sanitized shall be stored to protect against contamination.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0159 SEPARATION OF OPERATIONS**

(a) Facility design shall provide for continuous flow of raw materials and product to prevent contamination by exposure to areas involved in earlier processing steps, refuse or other areas subject to contamination.

(b) The following processes shall be carried out in separate rooms or areas:

- (1) Raw crustacea receiving or refrigeration.
- (2) Crustacea cooking.
- (3) Cooked crustacea air-cool.
- (4) Cooked crustacea refrigeration.
- (5) Picking.
- (6) Packing.
- (7) Picked crustacea meat refrigeration.
- (8) Pasteurizing/thermal processing.
- (9) Machine picking.
- (10) Repacking.
- (11) Other processes when carried out in conjunction with the cooking of crustacea or crustacea meat.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992;  
Amended Eff. April 1, 1997.

**15A NCAC 18A .0160 RAW CRUSTACEA RECEIVING AND REFRIGERATION**

- (a) Only fresh crustacea shall be accepted for processing.
- (b) Within two hours of receipt at the facility, crustacea shall be cooked or placed in a refrigerated area maintaining a temperature of 50° F (10 C) or below.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992.

**15A NCAC 18A .0161 CRUSTACEA COOKING**

- (a) The cooking area or room shall be under a roof located between the area for receiving raw crustacea and the air-cool room and shall be vented to assure the removal of steam.
- (b) Crustacea shall be cooked in accordance with the following:
  - (1) Crabs shall be cooked under steam pressure until the internal temperature of the center-most crab reaches 235° F (112.8° C). Temperature shall be measured with an accurate, indicating thermometer having a range of 170-270° F (77-132° C).
  - (2) Other crustacea shall be cooked until the internal temperature of the center-most crustacean reaches 180° F (83° C) and is held at this temperature for one minute. Temperature shall be measured with an accurate, indicating thermometer. Crayfish shall be culled and cleaned prior to cooking.
  - (3) Nothing in this Rule shall prohibit any other cooking process which has been found equally effective and approved by the Division.
- (c) The retort shall be constructed to permit a working pressure of at least 20 pounds per square inch (psig). Steam inlet and venting shall provide a uniform and complete distribution of steam. Venting shall be sufficient to permit complete elimination of air from the retort. Drains and vents shall be located at least two feet above mean high tide.
- (d) The retorts shall be equipped with:
  - (1) An accurate, indicating thermometer with a range that will include 170-270° F (77-132° C) and located with the sensor extending into the heat chamber.
  - (2) An operating pressure indicator, at least three inches in diameter, with a 0-30 psig range and located adjacent to the indicating thermometer.
  - (3) A safety valve operational at 18-30 psig, located in the upper portion of the retort, protected from tampering and designed to prevent injury to the operator.
- (e) The boiler shall be of such capacity as to maintain 45 to 100 psig during cooking. The steam line from the boiler to the retort shall be at least one and one-fourth inch inside diameter.
- (f) Overhead hoists shall be equipped with chain bags or other means of preventing foreign material from falling onto the cooked product.
- (g) Retort cooking baskets shall be of stainless steel or equally impervious, non-corrosive and durable material, and shall be designed to allow for equal steam disbursement, ease of handling, dumping and cleaning.
- (h) All construction or replacement of retorts after October 1, 1992 shall be "flow-through" type and opening directly into the air-cool room or a protected passageway into the air-cool room.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992.

**15A NCAC 18A .0162 COOKED CRUSTACEA AIR-COOL**

- (a) Cooked crustacea, after removal from the retort, shall be moved immediately to the cooked crustacea air cool area to be air cooled to ambient temperature without being disturbed. Cooked crustacea shall be stored in original cooking basket.
- (b) The construction and arrangement of the air-cool room shall be designed to provide protection from contamination of the cooked crustacea. The air-cool room shall open directly into the cooked crustacea cooler or other protected area.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992.

**15A NCAC 18A .0163 COOKED CRUSTACEA REFRIGERATION**

- (a) The cooked crustacea cooler shall be large enough to store all cooked crustacea and maintain a minimum temperature of 40° F (4.4° C). The cooler shall open directly into the picking room or into a clean, enclosed area leading into the picking room.

(b) Cooked crustacea shall be stored at a temperature between 33° F (0.5° C) and 40° F (4.4° C) ambient air temperature if not immediately processed. The cooler shall be equipped with an accurate, operating thermometer.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0164 COOKED CRUSTACEA PICKING**

- (a) The picking operation shall be conducted in a manner to prevent contamination.
- (b) All cooked crustacea shall be picked before a new supply is delivered to the picking table.
- (c) Picked crustacea meat shall be delivered to the packing room at least every 90 minutes or upon the accumulation of five pounds per picker whichever is sooner.
- (d) Paper towels used at the picking table shall be discarded after initial use.
- (e) If provided, bactericidal solutions at picking tables shall be maintained at 100 ppm chlorine solution or an equivalent bactericidal solution. A testing method or equipment to insure minimum prescribed strengths shall be available and used to test chemical sanitizers.
- (f) Handles of picking knives shall not be covered with any material.
- (g) Crustacea shall be cooked and picked in the same permitted facility unless a written plan for interfacility shipment has been filed with the Division. The plan shall address and be approved based upon the following:
  - (1) time-temperature;
  - (2) shipping-destination;
  - (3) handling;
  - (4) labeling;
  - (5) records;
  - (6) processing;
  - (7) sanitation; and
  - (8) HACCP plan.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992;  
Temporary Amendment Eff. July 1, 2000;  
Temporary Rule Expired on March 12, 2001;  
Amended Eff. August 1, 2002.*

**15A NCAC 18A .0165 PACKING**

- (a) Crustacea meat shall be packed in a container, iced and cooled to an internal temperature of 40° F (4.4° C) or below within two hours of receipt in the packing room.
- (b) The storage of ice in the packing room shall be in an easily cleanable, non-corrosive, non-toxic container.
- (c) Blending or combining of any of the following shall be prohibited:
  - (1) Fresh crustacea meat.
  - (2) Frozen crustacea meat.
  - (3) Pasteurized crustacea meat.
  - (4) Crustacea meat packed in another facility.
- (d) Clean shipping containers shall be provided for storing and shipping of packed crustacea meat.
- (e) The return of overage to a picker shall be prohibited.
- (f) Washing of picked crustacea meat shall be under running potable water. The crustacea meat shall be thoroughly drained prior to packing.
- (g) Any substance added to cooked crustacea or crustacea meat shall be approved and labeled according to Federal and State rules and regulations.
- (h) Only those individuals responsible for packing the crustacea or crustacea meat shall be allowed in the packing room or area.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0166 PICKED CRUSTACEA MEAT REFRIGERATION**

- (a) The refrigeration room or ice box shall be of sufficient size so that a full day's production, with ice, can be properly stored and shall be equipped with an accurate, operating thermometer.
- (b) Ice boxes shall be easily cleanable, non-corrosive, non-toxic with an impervious lining and a drain.
- (c) Picked crustacea meat shall be stored between 33° F (0.5° C) and 40° F (4.4° C).

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992.

**15A NCAC 18A .0167 DELIVERY WINDOW OR SHELF**

A delivery window or a non-corrosive shelf shall be provided between the picking room and packing room or area. The delivery window shall be equipped with a shelf completely covered with smooth, non-corrosive metal or other material approved by the Division and sloped to drain towards the picking room.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992.

**15A NCAC 18A .0168 SINGLE-SERVICE CONTAINERS**

- (a) Single-service containers used for packing or repacking cooked crustacea and crustacea meat shall be made from food safe materials approved by the United States Food and Drug Administration.
- (b) Containers shall not be reused for packing or repacking cooked crustacea and crustacea meat.
- (c) No person shall use containers bearing a permit number other than the number assigned to the facility.
- (d) Each container or lid shall be legibly impressed, embossed or lithographed with the name and address of the original packer, repacker or distributor. The original packer's or repacker's permit number preceded by the state abbreviation shall be legibly impressed, embossed or lithographed on each container or lid.
- (e) Each container or lid shall be permanently and legibly identified with a code date.
- (f) All containers and lids shall be stored and handled in accordance with these Rules, sanitized by a procedure as stated in Rule .0157 of this Section and drained prior to filling.
- (g) All containers shall be sealed so that tampering can be detected. The words "Sealed For Your Protection" or equivalent shall be prominently displayed on the container or lid.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992;  
Amended Eff. August 1, 1998; February 1, 1997.

**15A NCAC 18A .0169 FREEZING**

- (a) If crustacea or crustacea meat is to be frozen, the code date shall be followed by the letter "F."
- (b) Frozen crustacea or crustacea meat shall be stored at a temperature of 0° F (-18° C) or less.
- (c) The frozen storage rooms shall be equipped with an accurate, operating thermometer.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992;  
Amended Eff. August 1, 2002; April 1, 1997.

**15A NCAC 18A .0170 SHIPPING**

Cooked crustacea and crustacea meat shall be shipped between 33° F (0.5° C) and 40° F (4.4° C). Frozen crustacea products shall be shipped at 0° F (-18° C) or below.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992.

**15A NCAC 18A .0171 WHOLE CRUSTACEA OR CRUSTACEA PRODUCTS**

Whole crustacea, claws or any other crustacea products shall be prepared, packaged and labeled in accordance with the rules of this Section.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992.

**15A NCAC 18A .0172 COOKED CLAW SHIPPING CONDITIONS**

- (a) Vehicles used to transport cooked claws shall be mechanically refrigerated, enclosed, tightly constructed, kept clean and equipped with an operating thermometer.
- (b) Cooked crab claws shall be stored and transported between 33° F (0.5° C) and 40° F (4.4° C) ambient air temperature.
- (c) All vehicles shall be approved by the Division prior to use.
- (d) Cooked claw shipping containers shall be marked for intended use, cleaned and sanitized prior to use and approved by the Division.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992.*

**15A NCAC 18A .0173 REPACKING**

- (a) Crustacea meat for repacking which is processed in North Carolina shall comply with Rules .0134 through .0187 of this Section. Crustacea meat for repacking which is processed outside of North Carolina shall comply with Rule .0182 of this Section. Quarterly bacteriological reports shall be provided to the Division by the repacker of all foreign crustacea meat for repacking.
- (b) The repacker shall provide the Division a current written list of all sources of crustacea meat used for repacking.
- (c) Repacking of crustacea meat:
  - (1) Crustacea meat shall not exceed 45° F (7.1° C) during the repacking process.
  - (2) Repacking shall be conducted separately by time or space from the routine crustacea meat picking and packing process.
  - (3) The food contact surfaces and utensils utilized in the repacking process shall be cleaned and sanitized prior to repacking and thereafter on 30 minute intervals during repacking.
  - (4) Repacked crustacea meat shall be maintained at or below 40° F (4.4° C).
  - (5) Blending or combining of any of the following shall be prohibited:
    - (A) Fresh crustacea meat.
    - (B) Frozen crustacea meat.
    - (C) Pasteurized crustacea meat.
    - (D) Crustacea meat packed in another facility.
  - (6) Crustacea meat shall not be repacked more than one time.
  - (7) All empty containers shall be rendered unusable.
- (d) Labeling of repacked crustacea meat:
  - (1) Each container shall be legibly embossed, impressed or lithographed with the repacker's or the distributor's name and address.
  - (2) Each container shall be legibly embossed, impressed or lithographed with the repacker's certification number followed by the letters "RP."
  - (3) Each container shall be permanently and legibly identified with a code indicating the repack date.
  - (4) Each container shall be sealed so that tampering can be detected.
  - (5) Each container of foreign crustacea meat which has been repacked shall be labeled in accordance with Federal labeling requirements.
- (e) Records shall be kept for all purchases of crustacea meat for repacking and sales of repacked meat for one year. The records shall be available for inspection by the Division.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992;  
Amended Eff. August 1, 2002; April 1, 1997.*

**15A NCAC 18A .0174 PASTEURIZATION PROCESS CONTROLS - THERMOMETERS**

- (a) All pasteurizing equipment shall have a time-temperature recording thermometer with a temperature controller (combined or separately) and an indicating thermometer. The thermometers shall be located to give a true representation of the operating temperature of the water bath. The recording thermometer chart shall be at least a 12-hour chart and at least 10 inches in diameter.
- (b) The recording thermometer shall be installed so that it will be protected from vibration and from striking by loading operations or facility traffic. The thermometer mechanism shall be protected from moisture under prevailing conditions. The thermometer case shall not be opened during the pasteurizing cycle, except for temperature check or for emergency or repair. A record shall be made when the thermometer case has been opened.
- (c) The recording thermometer shall have a range of at least 120-220° F (48.9-104.4° C). It shall be accurate within plus or minus 1° F between 160° F (71° C) and 200° F (93° C). The chart shall be scaled at a maximum of 2° F intervals in the range of 160° F (71° C) and 200° F (93° C).
- (d) The indicating thermometer shall be a thermometer with an accuracy and readability of plus or minus 1° F between 160° F (71° C) and 200° F (93° C). The thermometer shall be protected against damage.
- (e) The recording thermometer shall be equipped with a spring-operated or electrically operated clock. The recorded elapsed time as indicated by the chart rotation shall not exceed the true elapsed time as shown by an accurate watch. The rotating chart support shall be provided with pins upon which the chart shall be affixed by puncturing the chart.
- (f) The pasteurization unit shall not be operated without a recording thermometer chart in place, the pen in contact with the chart and an inked record being made of the operating time-temperature cycle. Any indication of falsification of a thermometer chart shall constitute a violation. A permanent file of the used thermometer charts shall be maintained by the

pasteurizer and kept available for inspection by the Division for a period of one year. The following information shall be recorded within the confines of the pen markings after the pasteurization cycle has been completed:

- (1) Date of pasteurization.
  - (2) Quantity of each batch pasteurized (pounds of crustacea meat or number and size of containers).
  - (3) Processor's code of each pack.
  - (4) If the pasteurizer processes crustacea meat for someone else, then the packer's name, address and permit number must be recorded. A copy of the recording chart shall be provided to the owner of the crustacea meat.
  - (5) Notation of mechanical or power failure or opening of the recording thermometer case for adjustment or repair during the pasteurizing cycle.
  - (6) After the optimum temperature in the water bath has been reached and during the holding time, the reading of the indicating thermometer and the time of reading shall be recorded on the chart.
  - (7) Signature of the pasteurizer operator.
- (g) A constant flow steam control valve is required, if steam is used as a source of heat.
- (h) The water bath shall be provided with effective agitation to maintain a uniform temperature.
- (i) Other technologies that provide the data, information and records as required in this Rule may be used if approved by the Division.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992;  
Amended Eff. April 1, 1997.*

**15A NCAC 18A .0175 PREPARATION OF CRUSTACEA MEAT FOR PASTEURIZATION**

The preparation of crustacea meat for pasteurization shall be in compliance with the following:

- (1) Crustacea meat shall be prepared in compliance with Rules .0134 through .0183 of this Section.
- (2) The containers of crustacea meat shall be sealed as quickly as possible after the crustacea meat is picked.
- (3) The sealed container of crustacea meat shall be placed immediately in ice and refrigerated until pasteurized.

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992;  
Amended Eff. April 1, 1997.*

**15A NCAC 18A .0176 PASTEURIZATION OF CRUSTACEA MEAT**

The pasteurization of crustacea meat shall be in compliance with the following:

- (1) The minimum pasteurization specifications shall be the raising of the internal temperature of the container of crustacea meat to 185° F (85° C) and holding at that temperature for at least one minute at the geometric center of a container. Each set of pasteurizing equipment shall be standardized so that the minimum pasteurization procedure in this Subparagraph can be obtained. The pasteurization procedure shall be performed in accordance with the standardization report. This process shall also be posted adjacent to the pasteurization vat. The pasteurizer shall keep on file the standardization report and shall provide the Division a copy of such report.
- (2) Alteration of the equipment or loading of containers shall require the procedure be restandardized.
- (3) The containers of crustacea meat shall be cooled to 50° F (10° C) or below within three hours.
- (4) Refrigerated storage shall be provided for the cooled crustacea meat and shall maintain a storage temperature at or below 36° F (2.2° C).

*History Note: Authority G.S. 130A-230;  
Eff. October 1, 1992;  
Amended Eff. August 1, 1998.*

**15A NCAC 18A .0177 LABELING OF PASTEURIZED CRUSTACEA MEAT**

Labeling of pasteurized crustacea meat shall be in compliance with the following:

- (1) The label used shall clearly identify the contents of the container as pasteurized crustacea meat.
- (2) Each container shall be permanently and legibly identified with a code indicating the batch and day of processing.
- (3) The words "Perishable-Keep Under Refrigeration", or equivalent, shall be prominently displayed on the container.

- (4) The original packer's or repacker's permit number preceded by the state abbreviation shall be legibly impressed, embossed or lithographed on each container. Each container shall be legibly impressed, embossed or lithographed with the name and address of the original packer, repacker or distributor.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992.

#### **15A NCAC 18A .0178 INTERFACILITY PASTEURIZATION PROCEDURES**

No person shall initiate interfacility pasteurization of crustacea meat without prior written approval by the Division. Interfacility pasteurization of crustacea meat shall be in conjunction with the following:

- (1) Crustacea meat shall be packed, labeled and refrigerated in compliance with Rules .0134 through .0182 of this Section. Records shall be maintained to identify each batch of crustacea meat pasteurized.
- (2) Crustacea meat shall be shipped in an enclosed, easily cleanable vehicle at a temperature between 33° F (0.5° C) and 40° F (4.4° C).
- (3) Crustacea meat shall be pasteurized in compliance with Rules .0175 through .0177 of this Section. The pasteurizer shall provide a copy of each pasteurization chart to the original packer.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992.

#### **15A NCAC 18A .0179 RECALL PROCEDURE**

Each owner of a cooked crustacea or crustacea meat facility or repacker facility shall keep on file a written product recall procedure. A copy of this recall procedure shall be provided to the Division.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992.

#### **15A NCAC 18A .0180 SAMPLING AND TESTING**

Samples of cooked crustacea or crustacea meat may be taken and examined by the Division at any time or place. Samples of cooked crustacea or crustacea meat shall be furnished by the owner or operator of facilities, trucks, carriers, stores, restaurants and other places where cooked crustacea or crustacea meat are sold.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992.

#### **15A NCAC 18A .0181 EMBARGO OR DISPOSAL OF COOKED CRUSTACEA OR CRUSTACEA MEAT**

- (a) When it has been determined by the Division that cooked crustacea or crustacea meat have not been stored, transported, handled, cooked, picked, packed or offered for sale in compliance with this Section, the cooked crustacea or crustacea meat shall be deemed adulterated.
- (b) Cooked crustacea or crustacea meat prepared for sale to the public determined to be adulterated or misbranded, shall be subject to embargo or disposal by the Division in accordance with G.S. 130A-21(c). The Division may embargo, condemn, destroy or otherwise dispose of all cooked crustacea or crustacea meat found to be adulterated or misbranded.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992.

#### **15A NCAC 18A .0182 BACTERIOLOGICAL AND CONTAMINATION STANDARDS**

- (a) Cooked crustacea or crustacea meat shall not exceed Escherichia coli Most Probable Number (MPN) of 36 per 100 grams of sample or exceed a standard plate count of 100,000 per gram.
- (b) Pasteurized crustacea meat shall contain no Escherichia coli or fecal coliform. Samples of pasteurized crustacea meat, taken within 24 hours of pasteurizing, shall not have a standard plate count of more than 3,000 per gram.
- (c) Thermally processed crustacea or crustacea meat shall not exceed Escherichia coli MPN of 36 per 100 grams of sample or exceed a standard plate count of 100,000 per gram.
- (d) Cooked crustacea or crustacea meat shall not be handled in a manner to make it an imminent hazard.
- (e) Cooked crustacea or crustacea meat found not complying with the standards as stated in Paragraph (a), (b), (c) or (d) of this Rule may be deemed adulterated by the Division.

*History Note:* Authority G.S. 130A-230;  
Eff. October 1, 1992;  
Amended Eff. August 1, 1998; February 1, 1997.

**15A NCAC 18A .0183 ALTERNATIVE LABELING**

A durable label, permanently affixed to the container may be used to meet any labeling requirement in this Section.

*History Note: Authority G.S. 130A-230;  
Eff. August 1, 1998.*

**15A NCAC 18A .0184 THERMAL PROCESSING CONTROLS - THERMOMETERS**

(a) All thermal processing equipment shall have a time-temperature recording thermometer with a temperature controller (combined or separately) and an indicating thermometer. The thermometers shall be located to give a true representation of the operating temperature of the process. The recording thermometer chart shall be at least a 12-hour chart and at least 10 inches in diameter.

(b) The recording thermometer shall be installed so that it will be protected from vibration and from striking by loading operations or facility traffic. The thermometer mechanism shall be protected from moisture under prevailing conditions. The thermometer case shall not be opened during the thermal processing cycle, except for temperature check or for emergency or repair. A record shall be made when the thermometer case has been opened.

(c) The recording thermometer shall have a range of at least 120-220° F (48.9-104.4° C). It shall be accurate within plus or minus 1° F between 160° F (71° C) and 200° F (93° C). The chart shall be scaled at a maximum of 2° F intervals in the range of 160° F (71° C) and 200° F (93° C).

(d) The indicating thermometer shall be a thermometer with an accuracy and readability of plus or minus 1° F between 160° F (71° C) and 200° F (93° C). The thermometer shall be protected against damage.

(e) The recording thermometer shall be equipped with a spring-operated or electrically operated clock. The recorded elapsed time as indicated by the chart rotation shall not exceed the true elapsed time as shown by an accurate watch. The rotating chart support shall be provided with pins upon which the chart shall be affixed by puncturing the chart.

(f) The thermal processing unit shall not be operated without a recording thermometer chart in place, the pen in contact with the chart and an inked record being made of the operating time-temperature cycle. Any indication of falsification of a thermometer chart shall constitute a violation. A permanent file of the used thermometer charts shall be maintained by the thermal processor and kept available for inspection by the Division for a period of one year. The following information shall be recorded within the confines of the pen markings after the thermal processing cycle has been completed:

- (1) Date of thermal processing.
- (2) Quantity of each batch thermally processed (pounds of crustacea meat or number and size of containers).
- (3) Thermal processor's code of each pack.
- (4) If the thermal processor processes crustacea meat for someone else, then the packer's name, address and permit number must be recorded. A copy of the recording chart shall be provided to the owner of the crustacea meat.
- (5) Notation of mechanical or power failure or opening of the recording thermometer case for adjustment or repair during the thermal processing cycle.
- (6) After the optimum temperature in the thermal process has been reached and during the holding time, the reading of the indicating thermometer and the time of reading shall be recorded on the chart.
- (7) Signature of the thermal process operator.

(g) A constant flow steam control valve is required, if steam is used as a source of heat.

(h) The thermal processing unit shall be provided with effective and uniform temperature.

(i) Other technologies that provide the data, information and records as required in this Rule may be used if approved by the Division.

*History Note: Authority G.S. 130A-230;  
Eff. April 1, 1997.*

**15A NCAC 18A .0185 THERMAL PROCESSING OF CRUSTACEA AND CRUSTACEA MEAT**

The thermal processing of crustacea or crustacea meat shall be in compliance with the following:

- (1) The minimum thermal processing specifications shall be the raising of the internal temperature of the container of crustacea or crustacea meat to a desired temperature and time at the geometric center of a container. Each set of thermal processing equipment shall be standardized so that the minimum procedure can be obtained. The thermal process procedure shall be performed in accordance with the standardization report. This process shall also be posted adjacent to the thermal processing unit. The thermal processor shall keep on file the standardization report and shall provide the Division a copy of such report.
- (2) Alteration of the equipment or loading of containers shall require the procedure be restandardized.
- (3) The containers of crustacea or crustacea meat shall be cooled to 50° F (10° C) or below within three hours.

- (4) Refrigerated storage shall be provided for the cooled crustacea or crustacea meat and shall maintain a storage temperature at or below 36° F (2.2° C).

*History Note:* Authority G.S. 130A-230;  
Eff. August 1, 1998.

#### **15A NCAC 18A .0186 LABELING OF THERMALLY PROCESSED CRUSTACEA OR CRUSTACEA MEAT**

Labeling of thermally processed crustacea or crustacea meat shall be in compliance with the following:

- (1) The label used shall clearly identify the contents of the container as thermally processed crustacea or crustacea meat.
- (2) Each container shall be permanently and legibly identified with a code indicating the batch and day of processing.
- (3) The words "Perishable-Keep Under Refrigeration" or equivalent shall be prominently displayed on the container.
- (4) The original packer's or repacker's permit number preceded by the state abbreviation shall be legibly impressed, embossed or lithographed on each container. Each container shall be legibly impressed, embossed or lithographed with the name and address of the original packer, repacker or distributor.

*History Note:* Authority G.S. 130A-230;  
Eff. April 1, 1997.

#### **15A NCAC 18A .0187 INTERFACILITY THERMAL PROCESSING PROCEDURES**

Interfacility thermal processing of crustacea or crustacea meat shall be in conjunction with the following:

- (1) Crustacea or crustacea meat shall be packed, labeled and refrigerated in compliance with Rules .0134 through .0187 of this Section. Records shall be maintained to identify each batch of crustacea or crustacea meat thermally processed.
- (2) Crustacea or crustacea meat shall be shipped in an enclosed, easily cleanable vehicle at a temperature between 33° F (0.5° C) and 40° F (4.4° C).
- (3) Crustacea or crustacea meat shall be thermally processed in compliance with Rules .0184 through .0187 of this Section. The thermal processor shall provide a copy of each thermal processing chart to the original packer.

*History Note:* Authority G.S. 130A-230;  
Eff. August 1, 1998.

#### **15A NCAC 18A .0188 HAZARD ANALYSIS**

Each dealer shall conduct a hazard analysis to determine the food safety hazards that are reasonably likely to occur for each kind of crustacea or crustacea meat product processed by that dealer and to identify the preventative measures that the dealer can apply to control those hazards.

*History Note:* Authority G.S. 130A-230;  
Eff. August 1, 2000.

#### **15A NCAC 18A .0189 HACCP PLAN**

Each dealer shall have and implement a written HACCP Plan. The owner or authorized designee shall sign the plan when implemented and after any modification. The plan shall be reviewed and updated, if necessary, at least annually. The plan shall, at a minimum:

- (1) List the food safety hazards that are reasonably likely to occur;
- (2) List the critical control points for each of the food safety hazards;
- (3) List the critical limits that must be met for each of the critical control points;
- (4) List the procedures, and frequency thereof, that will be used to monitor each of the critical control points to ensure compliance with the critical limits;
- (5) List any corrective action plans to be followed in response to deviations from critical limits at critical control points;
- (6) Provide a record keeping system that documents critical control point monitoring; and
- (7) List the verification procedures, and frequency thereof, that the dealer will use.

*History Note:* Authority G.S. 130A-230;  
Eff. August 1, 2000.

**15A NCAC 18A .0190 SANITATION MONITORING REQUIREMENTS**

Each dealer shall monitor, at a minimum, the following sanitation items:

- (1) Safety of water;
- (2) Condition and cleanliness of food contact surfaces;
- (3) Prevention of cross contamination;
- (4) Maintenance of hand washing, hand sanitizing and toilet facilities;
- (5) Protection of crustacea or crustacea meat, crustacea or crustacea meat packaging materials and food contact surfaces from adulteration;
- (6) Proper labeling, storage and use of toxic compounds;
- (7) Control of employees with adverse health conditions; and
- (8) Exclusion of pests from the facility.

*History Note:* Authority G.S. 130A-230;  
Eff. August 1, 2000.

**15A NCAC 18A .0191 MONITORING RECORDS**

Monitoring records of critical control points and general sanitation requirements shall be recorded, as specified in plan, signed and dated when recorded. The records shall be reviewed by owner or designee within one week of recording.

*History Note:* Authority G.S. 130A-230;  
Eff. August 1, 2000.

**SECTION .0300 – SANITATION OF SHELLFISH - GENERAL****15A NCAC 18A .0301 DEFINITIONS**

The following definitions shall apply throughout Sections .0300 to .0900 of this Subchapter:

- (1) "Adulterated" means the following:
  - (a) Any shellfish that have been harvested from prohibited areas;
  - (b) Any shellfish that have been shucked, packed, or otherwise processed in a plant which has not been permitted by the Division in accordance with these Rules;
  - (c) Any shellfish which exceed the bacteriological standards in Rule .0430 of this Subchapter; and
  - (d) Any shellfish which are deemed to be an imminent hazard;
- (2) "Approved area" means an area determined suitable for the harvest of shellfish for direct market purposes.
- (3) "Bulk shipment" means a shipment of loose shellstock.
- (4) "Buy boat or buy truck" means any boat which complies with Rule .0419 of this Subchapter or truck which complies with Rule .0420 of this Subchapter that is used by a person permitted under these Rules to transport shellstock from one or more harvesters to a facility permitted under these Rules.
- (5) "Certification number" means the number assigned by the state shellfish control agency to each certified shellfish dealer. It consists of a one to five digit number preceded by the two letter state abbreviation and followed by the two letter symbol designating the type of operation certified.
- (6) "Critical control point" means a point, step or procedure in a food process at which control can be applied, and a food safety hazard can as a result be prevented, eliminated or reduced to acceptable levels.
- (7) "Critical limit" means the maximum or minimum value to which a physical, biological or chemical parameter must be controlled at a critical control point to prevent, eliminate or reduce to an acceptable level the occurrence of the identified food safety hazard.
- (8) "Depuration" means mechanical purification or the removal of adulteration from live shellstock by any artificially controlled means.
- (9) "Depuration facility" means the physical structure wherein depuration is accomplished, including all the appurtenances necessary to the effective operation thereof.
- (10) "Division" means the Division of Environmental Health or its authorized agent.
- (11) "Food safety hazard" means any biological, chemical or physical property that may cause a food to be unsafe for human consumption.
- (12) "HACCP plan" means a written document that delineates the procedures a dealer follows to implement food safety controls.
- (13) "Hazard analysis critical control point (HACCP)" means a system of inspection, control and monitoring measures initiated by a dealer to identify microbiological, chemical or physical food safety hazards which are likely to occur in shellfish products produced by the dealer.
- (14) "Heat shock process" means the practice of heating shellstock to facilitate removal of the shellfish meat from the shell.

- (15) "Imminent hazard" means a situation which is likely to cause an immediate threat to human life, and immediate threat of serious physical injury, an immediate threat of serious physical adverse health effects, or a serious risk of irreparable damage to the environment if no immediate action is taken.
- (16) "Misbranded" means the following:
  - (a) Any shellfish which are not labeled with a valid identification number awarded by regulatory authority of the state or territory of origin of the shellfish; or
  - (b) Any shellfish which are not labeled as required by these Rules.
- (17) "Operating season" means the season of the year during which a shellfish product is processed.
- (18) "Person" means an individual, corporation, company, association, partnership, unit of government or other legal entity.
- (19) "Prohibited area" means an area unsuitable for the harvesting of shellfish for direct market purposes.
- (20) "Recall procedure" means the detailed procedure the permitted dealer will use to retrieve product from the market when it is determined that the product may not be safe for human consumption as determined by the State Health Director.
- (21) "Relaying or transplanting" means the act of removing shellfish from one growing area or shellfish grounds to another area or ground for any purpose.
- (22) "Repacking plant" means a shipper, other than the original shucker-packer, who repacks shucked shellfish into containers for delivery to the consumer.
- (23) "Reshipper" means a shipper who ships shucked shellfish in original containers, or shellstock, from permitted shellstock dealers to other dealers or to consumers.
- (24) "Sanitary survey" means the evaluation of factors having a bearing on the sanitary quality of a shellfish growing area including sources of pollution, the effects of wind, tides and currents in the distribution and dilution of polluting materials, and the bacteriological quality of water.
- (25) "Sanitize" means the a bactericidal treatment by a process which meets the temperature and chemical concentration levels in 15A NCAC 18A .2619.
- (26) "SELL BY date" means a date conspicuously placed on a container or tag by which a consumer is informed of the latest date the product will remain suitable for sale.
- (27) "Shellfish" means oysters, mussels, scallops and all varieties of clams. However, the term shall not include scallops when the final product is the shucked adductor muscle only.
- (28) "Shellstock" means any shellfish which remain in their shells.
- (29) "Shellstock conveyance" means all trucks, trailers, or other conveyances used to transport shellstock.
- (30) "Shellstock dealer" means a person who buys, sells, stores, or transports or causes to be transported shellstock which was not obtained from a person permitted under these Rules.
- (31) "Shellstock plant" means any establishment where shellstock are washed, packed, or otherwise prepared for sale.
- (32) "Shucking and packing plant" means any establishment or place where shellfish are shucked and packed for sale.
- (33) "Wet storage" means the temporary placement of shellstock from approved areas, in containers or floats in natural bodies of water or in tanks containing natural sea water.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. August 1, 2000; August 1, 1998; February 1, 1997; January 4, 1994; September 1, 1990;  
December 1, 1987.*

**15A NCAC 18A .0302 PERMITS**

- (a) No person shall operate any of the following facilities without a permit issued by the Division:
  - (1) Depuration facilities;
  - (2) Shellstock plants;
  - (3) Shucking and packing plants;
  - (4) Repacking plants.
- (b) No person shall operate as a shellstock dealer without a permit issued by the Division.
- (c) A permit may be issued to a reshipper when required for out of state shipment.
- (d) Approval for wet storage of shellstock shall be granted only to persons permitted pursuant to this Rule.
- (e) Application for a permit shall be submitted in writing to the Division at the Shellfish Sanitation Office, Fisheries Building, Arendell Street, Morehead City, North Carolina, 28557. Application forms are available from the Division.
- (f) No permit shall be issued by the Division until an inspection shows that the facilities and equipment comply with all applicable rules of this Subchapter.
- (g) All permits shall be posted in a conspicuous place in the facilities. All permits shall expire on April 30 of each year.

(h) Plans and specifications for proposed new construction or remodeling shall be submitted to the Division for review and approval.

(i) A permit may be revoked or suspended pursuant to G.S. 130A-23.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. April 1, 1997.

#### **15A NCAC 18A .0303 RELAYING PERMITS**

If a person is granted a relaying permit by the Division and the Division of Marine Fisheries, shellfish may be removed from certain designated prohibited areas for conditioning and purification prior to marketing and marketed after relaying in a large body of clean water, but only under the following conditions:

- (1) Application for relaying must be received by the North Carolina Division of Marine Fisheries and the Division 15 days prior to relaying.
- (2) Removal and relaying shall be under the supervision of the Division and the Division of Marine Fisheries.
- (3) Shellfish relayed from a prohibited area to a designated area of approved water shall remain down for a period of not less than fourteen days when the water in which shellfish are relayed has a temperature above 50°F (10°C). When the water temperature is below 50°F (10°C), shellfish shall not be relayed.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. September 1, 1990.

#### **15A NCAC 18A .0304 DEPURATION HARVESTING PERMITS**

If a person is granted a depuration harvesting permit by the Division and the Division of Marine Fisheries, shellfish may be removed from certain designated prohibited areas for depuration prior to marketing and marketed after depuration in a permitted facility, but only under the following conditions:

- (1) Application for a depuration harvesting permit must be received by the Division of Marine Fisheries and the Division 15 days prior to harvesting for depuration purposes.
- (2) Harvesting for depuration purposes shall be under the supervision of the Division and the Division of Marine Fisheries.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. September 1, 1990.

#### **15A NCAC 18A .0305 APPEALS PROCEDURE**

Appeals concerning the interpretation and enforcement of the rules in this Subchapter shall be made in accordance with G.S. 150B.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. September 1, 1990.

### **SECTION .0400 – SANITATION OF SHELLFISH - GENERAL OPERATION STANDARDS**

Rules .0401 - .0431 of Title 15A Subchapter 18A of the North Carolina Administrative Code (T15A.18A .0401 - .0431); has been transferred and recodified from Rules .0901 - .0931 of Title 10 Subchapter 10B of the North Carolina Administrative Code (T10.10B .0901 - .0931), effective April 4, 1990.

#### **15A NCAC 18A .0401 APPLICABILITY OF RULES**

The rules in this Section shall apply to the operation of all facilities and persons permitted in Rule .0302 and all other businesses and persons that buy, sell, transport, or ship shellfish. These Rules do not apply to persons possessing shellfish for personal use.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. April 1, 1997; December 1, 1987.

**15A NCAC 18A .0402 GENERAL REQUIREMENTS FOR OPERATION**

- (a) During the operating season the plant shall be used for no purpose other than the handling of shellfish. All unnecessary equipment and materials shall be removed from the plant and the floors kept clear for thorough cleaning.
- (b) All floors, walls, shucking benches and stools, shucking blocks, tables, skimmers, blowers, colanders, buckets, or any other equipment or utensils used in the processing operation shall be cleaned and sanitized daily, or more frequently as may be necessary during the day's operation to prevent the introduction of undesirable microbiological organisms and filth into the shellfish product.
- (c) Ceilings and windows shall also be kept clean. Refrigerators, refrigeration rooms, and ice boxes shall be washed and sanitized.
- (d) Wheelbarrows, measures, baskets, shovels, and other implements used in the handling of shellstock shall not be used for any other purpose and shall be cleaned and stored in the shellstock room when not in use.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0403 SUPERVISION**

The owner shall personally supervise or shall designate an individual whose principal duty shall be to supervise and be responsible for compliance with the Rules of this Subchapter. No unauthorized persons shall be allowed in the plant during periods of operation.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0404 CONSTRUCTION**

Shellfish plants shall be adequate in size and construction to permit compliance with the operational provisions of this Subchapter.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0405 PLANT LOCATION**

Shellfish plants shall be located so that they will not be subject to flooding by high tides.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0406 FLOORS**

Floors shall be of concrete or other equally impervious material, constructed so that they may be easily and thoroughly cleaned and shall be sloped so that water drains completely and rapidly. For new construction, the joints between walls and floors shall be rounded to expedite cleaning.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0407 WALLS AND CEILINGS**

Walls to a height of at least two feet above the floor shall be constructed of smooth concrete or other equally impervious material. The remainder of the walls and ceilings shall be smooth concrete, cement plaster, or other material approved by the Division and shall be painted with a light color washable paint.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0408 LIGHTING**

Natural or artificial lighting shall be provided in all parts of the plant. Light bulbs, fixtures, or other glass suspended within the plant shall be safety type or otherwise protected to prevent contamination in case of breakage. Lighting intensities shall be a minimum of 25 foot candles on working surfaces in packing and shucking rooms.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0409 VENTILATION**

Ventilation shall be provided to eliminate odors and condensation.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0410 FLY CONTROL**

All outside openings shall be screened, provided with wind curtains or be provided with other fly control methods approved by the Division. All screens shall be kept in good repair. All outside doors shall open outward and shall be self-closing. The use and storage of pesticides shall comply with all applicable state and federal guidelines.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0411 RODENT AND ANIMAL CONTROL**

The plant shall be constructed to prevent entrance of rodents and other vermin. The storage and use of rodenticides shall comply with all applicable state and federal guidelines. No animals shall be allowed in the plant at any time.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0412 PLUMBING**

All plumbing shall be in compliance with applicable plumbing codes.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0413 WATER SUPPLY**

(a) The water supply shall be from a source approved by the Division.

(b) The water supply used shall be located, constructed, maintained, and operated in accordance with the Commission for Public Health's rules governing water supplies. Copies of 15A NCAC 18A .1700 and 15A NCAC 18C may be obtained from the Division.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. September 1, 1990.*

**15A NCAC 18A .0414 TOILET FACILITIES**

Separate and convenient toilet facilities shall be provided for each sex employed and shall comply with the N.C. State Building Code, Volume 2, Plumbing. Floors, walls, and ceilings shall be smooth, easily cleanable and kept clean. Fixtures shall be kept clean. All toilet wastes and other sewage shall be disposed of in a public sewer system or in the absence of a public sewer system, by an on site sewage disposal system approved by the Department in accordance with G.S. 130A-335.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. September 1, 1990.*

**15A NCAC 18A .0415 WASTE DISPOSAL**

Shells, washings, and other wastes shall be disposed of in a sanitary landfill or in a sanitary manner approved by the Division.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0416 PERSONAL HYGIENE**

(a) All employees shall wash their hands thoroughly with soap and running water before beginning work and again after each interruption. Signs to this effect shall be posted in conspicuous places in the plant by the operator.

(b) All persons handling shucked shellfish shall sanitize their hands before beginning work and again after each interruption.

(c) All persons employed or engaged in the handling, shucking, or packing of shellfish shall wear clean, washable outer clothing. Clean plastic or rubber aprons, overalls, and rubber gloves shall be considered satisfactory.

(d) Employees shall not use tobacco in any form in the rooms where shellfish are stored, processed, or handled.

(e) All persons known to be a carrier of any disease which can be transmitted through the handling of shellfish or who have an infected wound or open lesion on any exposed portion of their bodies shall be prohibited from handling shellfish.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

#### **15A NCAC 18A .0417 LOCKERS**

A separate room or locker shall be provided for storing employees' street clothing, aprons, gloves, and personal articles.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

#### **15A NCAC 18A .0418 SUPPLY STORAGE**

Storage room shall be provided for storing shipping containers, tags, and other supplies.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

#### **15A NCAC 18A .0419 HARVEST BOATS**

All boats used in the harvesting and handling of shellstock shall be kept clean and repaired such that the shellstock thereon shall not be subject to adulteration by bilge water, by leakage of water from prohibited areas, or by other means. Decks, holds, or bins used for shellstock on boats shall not be washed with water from prohibited areas. Human wastes shall not be discharged into shellfish waters.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

#### **15A NCAC 18A .0420 TRANSPORTING SHELLSTOCK**

(a) All shellstock storage areas in trucks, buy boats, buy trucks, trailers, and other conveyances used for transporting shellstock shall be enclosed, tightly constructed, painted with a light color washable paint, kept clean, and shall be subject to inspection by the Division.

(b) Shellstock shall be shipped under temperature and sanitary conditions in accordance with these Rules which will keep them alive and clean and will prevent adulteration or deterioration. All shellstock shall be kept under mechanical refrigeration at a temperature of 45°F (7.1°C) or below. All conveyances used to transport shellstock shall be equipped with an operating thermometer.

(c) Buy boats and buy trucks shall be kept clean with water from a source approved by the Division under Rule .0413 of this Subchapter. Buy boats and buy trucks shall provide storage space for clean shipping containers, identification tags, and records.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. May 1, 1994.*

#### **15A NCAC 18A .0421 DAILY RECORD**

All permitted persons who conduct any business of buying, selling, or shipping shellfish shall keep an accurate, daily record which shall show the names and addresses of all persons from whom shellfish are received, the location of the source of shellfish, and the names and addresses of all persons to whom shellfish are sold or shipped. These records shall be recorded and shall be kept on file for one year. All records shall be open to inspection by the Division at any time during business hours.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. August 1, 1998.*

**15A NCAC 18A .0422 SHELLSTOCK CLEANING**

No person shall offer for sale any shellstock which have not been washed free of bottom sediments and detritus.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0423 SALE OF LIVE SHELLSTOCK**

Only live shellstock shall be offered for sale.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0424 SHELLFISH RECEIVING**

No person shall receive or accept any shellfish unless the container or package bears the tag or label required by these Rules.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. April 1, 1997.*

**15A NCAC 18A .0425 TAGGING**

(a) In order that information may be available to the Division with reference to the origin of shellstock, containers holding shellstock shall be identified with a uniform tag or label. The tag shall be durable, waterproof and measure at least 2-5/8 by 5-1/4 inches (6.7 by 13.3 centimeters). The tag shall contain legible information arranged in specific order as follows:

- (1) the dealer's name, address and certification number assigned by the appropriate shellfish control agency;
- (2) the original shipper's certification number;
- (3) the harvest date;
- (4) the harvest location, including the country or state abbreviation;
- (5) when the shellstock has been in wet storage, the statement "THIS PRODUCT WAS IN WET STORAGE AT (FACILITY CERTIFICATION NUMBER) FROM (DATE) TO (DATE)";
- (6) the type and quantity of shellfish;
- (7) the following statement shall appear in bold capitalized type "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE FOR 90 DAYS."; and
- (8) the following statement, or equivalent, "Consumer Advisory  
Eating raw oysters, clams or mussels may cause severe illness. People with the following conditions are at especially high risk: liver disease, alcoholism, diabetes, cancer, stomach or blood disorder, or weakened immune system. Ask your doctor if you are unsure of your risk. If you eat raw shellfish and become sick, see a doctor immediately."

(b) The uniform tag or label shall remain attached to the shellstock container until the container is empty and thereafter shall be kept on file for 90 days.

(c) All shellstock from a depuration facility must be identified as having been cleansed by a depuration facility identified by a name and permit number on the tag.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. April 1, 1997; January 4, 1994; December 1, 1987;  
Temporary Amendment Eff. October 12, 1998; February 1, 1998;  
Amended Eff. April 1, 1999.*

**15A NCAC 18A .0426 BULK SHIPMENTS**

Shipment in bulk shall not be made except where the shipment is from only one consignor to one consignee and accompanied by the uniform shipping tag.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0427 SHELLSTOCK STORAGE**

Shellstock held in wet or dry storage must be kept so that they will not become adulterated. All shellstock held in dry storage shall be kept under mechanical refrigeration at a temperature of 45°F (7.1°C) or below. All refrigerated shellstock storage areas shall be equipped with an operating thermometer.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. May 1, 1994; December 1, 1987.*

**15A NCAC 18A .0428 SAMPLING AND TESTING**

Samples of shellfish may be taken and bacteriologically examined for any public health reason by agents of the Division at any time or place. Samples of shellfish shall be furnished, upon request, by operators of plants, trucks, carriers, stores, restaurants, and other places where shellfish are sold.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0429 STOPSALE OR DISPOSAL OF SHELLFISH**

(a) When it has been determined by the Division that shellfish have not been grown, harvested, stored, treated, transported, handled, shucked, packed or offered for sale in compliance with 15A NCAC 18A .0300 through .0900 of this Subchapter, those shellfish shall be deemed adulterated.

(b) Shellfish or shellfish products processed or prepared for sale to the public determined to be adulterated or misbranded shall be subject to stopsale or disposal by the Division. The Division may temporarily or permanently issue an order to stop sale or condemn, destroy, or otherwise dispose of all shellfish or shellfish containers found to be adulterated or misbranded.

(c) All shellfish shall be disposed of in a manner prescribed by the Division or by a court of appropriate jurisdiction.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0430 BACTERIOLOGICAL STANDARDS**

Shellfish shucked or in the shell and intended or offered for sale in North Carolina that exceed an Escherichia coli Most Probable Number of 230 per 100 grams of sample or a total bacteria count of more than 500,000 per gram or contain pathogenic organisms in sufficient numbers to be hazardous to the public health shall be deemed adulterated by the Division. Shellfish contaminated by any other substance which renders it unsafe for human consumption shall be deemed adulterated by the Division.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0431 STANDARDS FOR AN APPROVED SHELLFISH GROWING AREA**

In order that an area be approved for shellfish harvesting for direct market purposes the following criteria must be satisfied as indicated by sanitary survey:

- (1) the shoreline survey has indicated that there is no significant point source contamination;
- (2) the area is not so contaminated with fecal material that consumption of the shellfish might be hazardous;
- (3) the area is not so contaminated with radionuclides or industrial wastes that consumption of the shellfish might be hazardous; and
- (4) the median fecal coliform Most Probable Number (MPN) or the geometric mean MPN of water shall not exceed 14 per 100 milliliters, and not more than 10 percent of the samples shall exceed a fecal coliform MPN of 43 per 100 milliliters (per five tube decimal dilution) in those portions of areas most probably exposed to fecal contamination during most unfavorable hydrographic conditions.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0432 PUBLIC DISPLAY OF CONSUMER ADVISORY**

All facilities and persons permitted in Rule .0302 of this Subchapter and all other businesses and persons that sell raw shellfish shall post in a conspicuous place where it may be readily observed by the public the following consumer advisory:

"Consumer Advisory

Eating raw oysters, clams or mussels may cause severe illness. People with the following conditions are at especially high risk: liver disease, alcoholism, diabetes, cancer, stomach or blood disorder, or weakened immune system. Ask your doctor if you are unsure of your risk. If you eat shellfish and become sick, see a doctor immediately."

*History Note: Authority G.S. 130A-230;  
Temporary Adoption Eff. October 12, 1998; February 1, 1998;  
Eff. April 1, 1999.*

**15A NCAC 18A .0433 HAZARD ANALYSIS**

Each dealer shall conduct a hazard analysis to determine the food safety hazards that are reasonably likely to occur for each kind of shellfish product processed by that dealer and to identify the preventative measures that the dealer can apply to control those hazards.

*History Note: Authority G.S. 130A-230;  
Eff. August 1, 2000.*

**15A NCAC 18A .0434 HACCP PLAN**

Each dealer shall have and implement a written HACCP Plan. The owner or authorized designee shall sign the plan when implemented and after any modification. The plan shall be reviewed and updated, if necessary, at least annually. The plan shall, at a minimum:

- (1) List the food safety hazards that are reasonably likely to occur;
- (2) List the critical control points for each of the food safety hazards;
- (3) List the critical limits that must be met for each of the critical control points;
- (4) List the procedures, and frequency thereof, that will be used to monitor each of the critical control points to ensure compliance with the critical limits;
- (5) List any corrective action plans to be followed in response to deviations from critical limits at critical control points;
- (6) Provide a record keeping system that documents critical control point monitoring; and
- (7) List the verification procedures, and frequency thereof, that the dealer will use.

*History Note: Authority G.S. 130A-230;  
Eff. August 1, 2000.*

**15A NCAC 18A .0435 SANITATION MONITORING REQUIREMENTS**

Each dealer shall monitor, at a minimum, the following sanitation items:

- (1) Safety of water;
- (2) Condition and cleanliness of food contact surfaces;
- (3) Prevention of cross contamination;
- (4) Maintenance of hand washing, hand sanitizing and toilet facilities;
- (5) Protection of shellfish, shellfish packaging materials and food contact surfaces from adulteration;
- (6) Proper labeling, storage and use of toxic compounds;
- (7) Control of employees with adverse health conditions; and
- (8) Exclusion of pests from the facility.

*History Note: Authority G.S. 130A-230;  
Eff. August 1, 2000.*

**15A NCAC 18A .0436 MONITORING RECORDS**

Monitoring records of critical control points and general sanitation requirements shall be recorded, as specified in the plan, signed and dated when recorded. The records shall be reviewed by the owner or designee within one week of recording.

*History Note: Authority G.S. 130A-230;  
Eff. August 1, 2002.*

## **SECTION .0500 – OPERATION OF SHELLSTOCK PLANTS AND RESHIPPERS**

Rules .0501 - .0504 of Title 15A Subchapter 18A of the North Carolina Administrative Code (T15A.18A .0501 - .0504); has been transferred and recodified from Rules .1001 - .1004 of Title 10 Subchapter 10B of the North Carolina Administrative Code (T10.10B .1001 - .1004), effective April 4, 1990.

### **15A NCAC 18A .0501 GENERAL REQUIREMENTS**

The rules in Section .0400 shall apply for the operation of shellstock plants and reshippers.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

### **15A NCAC 18A .0502 GRADING SHELLSTOCK**

- (a) The grading of shellstock shall be conducted only in a permitted shellstock plant.
- (b) A separate grading room or area shall be required for the grading of shellstock.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

### **15A NCAC 18A .0503 GRADER**

The grader used to grade shellstock, and any other accessories or tables used in the grading operation, shall be constructed for ease of cleaning and shall be properly maintained.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

### **15A NCAC 18A .0504 RESHIPPERS**

- (a) Reshippers shall meet all applicable requirements for shellstock plants. When shucked shellfish are reshipped, they shall be obtained from a permitted shipper. The shucked shellfish shall be received in approved shipping containers at a temperature of 40°F (4°C) or below. The temperature of the shellfish shall not exceed 40°F (4°C) during the holding and shipping periods.
- (b) Reshippers shall keep adequate and accurate records indicating the source from which shellfish were purchased, the date purchased, the name of the waters from which the shellfish were harvested, and the names and addresses of persons to whom the shellfish were sold for a period of one year.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. September 1, 1990.*

## **SECTION .0600 – OPERATION OF SHELLFISH SHUCKING AND PACKING PLANTS AND REPACKING PLANTS**

Rules .0601 - .0619 of Title 15A Subchapter 18A of the North Carolina Administrative Code (T15A.18A .0601 - .0619); has been transferred and recodified from Rules .1101 - .1119 of Title 10 Subchapter 10B of the North Carolina Administrative Code (T10.10B .1101 - .1119), effective April 4, 1990.

### **15A NCAC 18A .0601 GENERAL REQUIREMENTS**

The rules in Section .0400 shall apply for the operation of shucking and packing plants and repacking plants.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

### **15A NCAC 18A .0602 SEPARATION OF OPERATIONS**

A shucking and packing plant shall provide separate rooms for shellstock storage, shucking, heat shock, and general storage. A separate packing area with delivery shelf shall be required.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0603 HOT WATER SYSTEM**

An automatically regulated hot water system shall be provided which has sufficient capacity to furnish water at a temperature of at least 130°F (54°C) during all hours of plant operation.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0604 HANDWASHING FACILITIES**

Handwashing facilities, including lavatories, hot and cold running water (combination supply faucet), soap, and individual towels shall be provided in a convenient place in the shucking and packing rooms. Signs requiring handwashing shall be conspicuously displayed within the plant.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0605 DELIVERY WINDOW OR SHELF**

A delivery window or a non-corrosive shelf shall be installed in the partition between the shucking room and packing area. No shuckers or unauthorized personnel shall be allowed in the packing room or area. The delivery window shall be equipped with a shelf completely covered with smooth, non-corrosive metal or other material approved by the Division for such purpose, sloped to drain towards the shucking room.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0606 NON-FOOD CONTACT SURFACES**

All non-food contact surfaces of equipment shall be non-absorbent, and constructed to be easily cleaned.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0607 SHUCKING BENCHES**

Shucking benches, tables, and contiguous walls to a height of at least two feet above the bench top, shall be of smooth concrete, non-corrosive metal, or other durable non-absorbent material, free from cracks and pits, and so constructed that drainage is complete and rapid and is directed away from the stored shellfish. Shucking blocks shall be solid, one-piece construction, removable, and easily cleanable. The stands, stalls and stools shall be of smooth material and shall be painted with a light colored washable paint.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

**15A NCAC 18A .0608 EQUIPMENT CONSTRUCTION**

- (a) All pails, skimmers, measures, tanks, tubs, blowers, paddles, and other equipment, which come into contact with shucked shellfish or with ice used for direct cooling of shellfish, shall be made of smooth, non-corrosive, impervious materials and constructed so as to be easily cleanable and shall be kept clean and in good repair.
- (b) All equipment, including external and internal blower lines and hoses below a point two inches above the overflow level of the tank and blower drain valves, shall be constructed as to be easily cleanable; and there shall be no V-type threads in the food-product zone of the blower.
- (c) The blower and skimmer drain shall not be directly connected with the sewer. There shall be an air gap, approved by the Division, between the blower and skimmer outlets. A floor drain shall be provided.
- (d) Air-pump intakes shall be located in a place protected from dirt and other contamination, and shall be equipped with filters.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. September 1, 1990.*

**15A NCAC 18A .0609 SANITIZING EQUIPMENT**

Washing and sanitizing facilities, including a three-compartment wash sink of adequate size to wash the largest utensils used in the plant shall be provided in a section of the plant convenient to the work areas. The sink shall be kept in good

repair. Permanent hot and cold water connections, with combination supply faucets, shall be installed so that all vats may receive hot and cold water. Either steam, hot water, or a sanitizing solution shall be used to sanitize utensils and equipment.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. December 1, 1987.*

#### **15A NCAC 18A .0610 EQUIPMENT SANITATION**

All utensils and tools, such as opening knives, shucking pails, measures, skimmers, colanders, tanks, tubs, paddles, and containers which come in contact with the shellfish shall be thoroughly cleaned and then sanitized:

- (1) by steam in a steam chamber or box equipped with an indicating thermometer located in the coldest zone, by exposure to a temperature of 170°F (76°C) for at least 15 minutes, or to a temperature of 200°F (93°C) for at least five minutes;
- (2) by immersion in hot water at a temperature of 170°F (76°C) for at least two minutes (a thermometer is required);
- (3) by immersion for at least one minute in, or exposure for at least one minute to, a constant flow of a solution containing not less than 100 parts per million chlorine residual. Utensils and equipment which have to be washed in place will require washing, rinsing, and sanitizing; or
- (4) by a bactericidal treatment method which will provide equivalent sanitization to that provided by the methods authorized in (1), (2), or (3), as determined by the Division. If the bactericidal immersion or spray treatment is employed, testing kits shall be used to ensure that minimum solution strengths are maintained throughout the cleaning process.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

#### **15A NCAC 18A .0611 EQUIPMENT STORAGE**

Equipment and utensils which have been cleaned and given bactericidal treatment shall be stored to protect against contamination.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

#### **15A NCAC 18A .0612 ICE**

Ice shall be obtained from a water supply approved by the Division pursuant to Rule .0413 of this Subchapter and shall be stored and handled in a sanitary manner.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

#### **15A NCAC 18A .0613 SHELLFISH SHUCKING**

- (a) Shellfish shall be shucked in a manner that they are not subject to adulteration. Shellstock shall be reasonably free of mud when shucked. Only live shellstock shall be shucked.
- (b) Shucking of shellstock shall only be permitted on approved shucking tables or benches. Floors used by shuckers shall not be used for the storage of shellfish or the retention of shucking pails or other food contact containers.
- (c) When shellstock are stored in the shucking room, protection shall be provided for the storage space to prevent possible adulteration from wash water wastes and from the feet of the employees.
- (d) Shucking pails shall be placed so as to exclude the drippings from shells and from the hands of shuckers. The pails shall be rinsed with running tap water before each filling.
- (e) Shucked shellfish, when washed, shall be thoroughly washed on a skimmer or a container approved by the Division with cold running water from a source approved by the Division under Rule .0413 of this Subchapter.
- (f) The return of excess shucked shellfish from the packing room shall not be allowed. All shucked shellfish shall be packed before leaving the packing room.
- (g) If blowers are used for cleansing, the total time that shellfish are in contact with water after leaving the shucker, including the time of washing, rinsing, and any other contact with water shall not be more than 30 minutes. In computing the time of contact with water, the length of time that shellfish are in contact with water that is agitated, shall be calculated at twice its actual length. Before packing into containers for shipment or delivery for consumption, the shellfish shall be drained and packed without any added substance.
- (h) Pre-cooling of shucked shellfish shall be done in equipment which meets National Sanitation Foundation standards or the equivalent.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. September 1, 1990.

#### **15A NCAC 18A .0614 CONTAINERS**

- (a) Containers used for transporting shucked shellfish shall be made from food safe materials approved by the United States Food and Drug Administration. These containers shall not be reused for packing shellfish.
- (b) Shucked shellfish shall be packed and shipped in containers, sealed so that tampering can be detected. Each individual container shall have permanently recorded on the container, so as to be conspicuous, the shucker-packer's, repacker's, or distributor's name and address, and the shucker-packer's or repacker's certification number.
- (c) Any container of shucked shellfish which has a capacity of 64 fluid ounces or more shall be dated as of the date shucked on both the lid and sidewall or bottom. Any container of shucked shellfish which has a capacity of less than 64 fluid ounces shall indicate a SELL BY date.
- (d) No person shall use containers bearing a certification number other than the number assigned to him.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. August 1, 1998; February 1, 1997; December 1, 1987.

#### **15A NCAC 18A .0615 SHELLFISH COOLING**

Shucked shellfish shall be cooled to an internal temperature of 45°F (7°C) or less within two hours after delivery to the packing room. Storage temperatures shall be 40° F (4° C) or below. No ice or other foreign substance shall be allowed to come into contact with the shellfish after processing has been completed.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. April 1, 1997.

#### **15A NCAC 18A .0616 SHELLFISH FREEZING**

- (a) If shellfish are to be frozen, they shall be frozen within three days of shucking and packing and the shucked date shall be preceded by the letter (F).
- (b) A temperature of 0° F (-18° C) or less shall be maintained in the frozen storage rooms.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. April 1, 1997; December 1, 1987.

#### **15A NCAC 18A .0617 SHIPPING**

- (a) Shucked shellfish shall be stored and shipped at 40° F (4° C) or below.
- (b) Shipments shall be tagged or labeled to show the name and address of the consignee, the name and address of the shipper, the name of the state or territory of origin, and the permit number of the shipper.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. April 1, 1997.

#### **15A NCAC 18A .0618 HEAT SHOCK METHOD OF PREPARATION OF SHELLFISH**

- (a) Facilities. If a shucking and packing plant uses the heat shock process, it shall be done in a separate room adjacent to the shellstock storage room and the shucking room.
- (b) Tank construction. The heat shock tank shall be constructed of smooth, non-corrosive metal, designed to drain quickly and completely and to be easily and thoroughly cleaned.
- (c) Booster heaters. All heat shock tanks shall be equipped with booster heaters that are thermostatically controlled.
- (d) Shellstock washing. All shellstock subjected to the heat shock process shall be thoroughly washed with flowing potable water immediately prior to the heat shock operation.
- (e) Water temperature. During the heat shock process the water shall be maintained at not less than 140°F (60°C) or more than 150°F (65°C). An accurate thermometer shall be available and used to determine the temperature during the heat shock process. The heat shock tanks shall be drained and cleaned at the end of each day's operation.
- (f) Alternatives to heat shock method. Nothing in these Rules shall be construed to prohibit any other process which has been found equally effective.

- (g) Water requirements. At least eight gallons of heat shock water shall be maintained in the tank for each one half bushel of shellstock being treated. All water used in the heat shock process shall be from a source approved by the Division under Rule .0413 of this Subchapter.
- (h) Cooling. Immediately after the heat shock process, all treated shellstock shall be subjected to a cool-down with potable tap water. All heat shocked shellstock shall be handled in a manner to prevent adulteration of the product. Shellfish which have been subjected to the heat shock process shall be cooled to an internal temperature of 45°F (7°C) or below within two hours after this process and shall be placed in storage at 40°F (4°C) or below.
- (i) Cleaning. At the close of each day's operation, the heat shock tank shall be completely emptied of all water, mud, detritus, and thoroughly cleaned and then rinsed with flowing potable water.
- (j) Sanitizing. All heat shock tanks shall be sanitized immediately before starting each day's operation.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. August 1, 2002; August 1, 1998; February 1, 1997; September 1, 1990.

#### **15A NCAC 18A .0619 REPACKING OF SHELLFISH**

- (a) If repacking is practiced, it shall be done strictly in accordance with all the requirements stipulated for shucking and packing plants except those related to shucking.
- (b) The shucked shellfish to be repacked shall be received at the repacking plant in approved shipping containers at a temperature of 32° - 40°F (0° - 4°C) or less.
- (c) Shellfish shall not be repacked more than one time.
- (d) The temperature of the shellfish shall not exceed 45°F (7°C) during the repacking process.
- (e) Containers with a capacity of 64 fluid ounces or less in which shucked shellfish are repacked shall indicate a SELL BY date preceded by the letter R. Containers with a capacity above 64 fluid ounces in which shucked shellfish are repacked shall be dated to show the original shucking date and repacking date, which will be preceded by the letter (R).
- (f) Repackers shall keep accurate records indicating source from which shellfish were purchased, the date packed, the date of purchase, the area within the state or territory from which the shellfish were harvested, and the names and addresses of persons to whom the shellfish were sold.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. December 1, 1987.

#### **15A NCAC 18A .0620 SHELLFISH THAWING AND REPACKING**

- (a) Frozen shellfish shall be thawed under temperatures not to exceed 45° F (7° C).
- (b) Shellfish held for thawing shall be separated from other shellfish.
- (c) Thawed shellfish shall not exceed 45° F (7° C) during the repacking process.
- (d) Containers of repacked, thawed shellfish shall be labeled as required in Rule .0619 of this Section and shall also be labeled as "PREVIOUSLY FROZEN", or equivalent.
- (e) Thawed shellfish, which remain in original containers, shall be labeled as required in Rule .0614 of this Section and shall also be labeled as "PREVIOUSLY FROZEN", or equivalent.

*History Note:* Authority G.S. 130A-230;  
Eff. April 1, 1997.

#### **15A NCAC 18A .0621 RECALL PROCEDURE**

Each owner of a shellfish facility shall keep on file a written shellfish recall procedure. A copy of this procedure shall be provided to the Division.

*History Note:* Authority G.S. 130A-230;  
Eff. August 1, 1998.

### **SECTION .0700 – OPERATION OF DEPURATION (MECHANICAL PURIFICATION) FACILITIES**

Rules .0701 - .0713 of Title 15A Subchapter 18A of the North Carolina Administrative Code (T15A.18A .0701 - .0713); has been transferred and recodified from Rules .1201 - .1213 of Title 10 Subchapter 10B of the North Carolina Administrative Code (T10.10B .1201 - .1213), effective April 4, 1990.

#### **15A NCAC 18A .0701 GENERAL REQUIREMENTS**

The Rules in Section .0400 shall apply for the operation of depuration facilities.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987.

#### **15A NCAC 18A .0702 FACILITY SUPERVISION**

- (a) The owner shall either personally supervise or designate an individual to be responsible for compliance with the rules of this Subchapter.
- (b) The depuration facility shall be used for no purpose other than the treatment of shellfish and research activities related thereto. No unauthorized persons shall be allowed in the depuration facility.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987.

#### **15A NCAC 18A .0703 FACILITY DESIGN AND SANITATION**

- (a) The plant layout shall be designed to physically separate undepurated shellstock from depurated shellstock and be approved by the Division.
- (b) Tank design and construction. The tank shall be designed to allow for good water circulation. The tank shall be of sufficient size to allow at least eight cubic feet of sea water per bushel of shellstock in the tank except for soft clams (*Mya arenaria*), which requires at least five cubic feet of sea water per bushel. If the tank is rectangular in shape, length to width ratio shall be from two to one (2:1) to four to one (4:1).
- (c) The tank shall be designed so that scum and sludge (shellfish feces, pseudo feces, sand grit, etc.), can be easily removed or flushed out. The bottom shall be sloped longitudinally at least one fourth to one half inch per foot toward the outlet end.
- (d) To facilitate proper cleaning and sanitation, as well as proper depuration of shellfish, tanks shall be constructed from impervious, non-toxic, and inert materials. Coatings, when used, shall be approved by the Division. Pipes conveying process water throughout the plant shall be so constructed as to be easily disassembled to facilitate cleaning and sanitizing.
- (e) Facility sanitation. The general sanitation requirement of the facility, physical structure, equipment and utensils, and the sanitary requirements for operations, processes, and personnel shall be approved by the Division.
- (f) Material. The equipment in the food product zone shall be made of smooth, corrosion resistant, impervious, non-toxic material and shall meet National Sanitation Foundation standards or the equivalent.
- (g) Plumbing and related facilities. Plumbing shall be installed in compliance with state and local plumbing ordinances. Lavatories shall have running hot and cold water. Lavatories, other than those located in restrooms, shall be located so that their use by personnel can be readily observed. An automatically regulated hot water system shall be provided which has sufficient capacity to furnish water at a temperature of at least 130°F (54°C) during all hours of plant operation. Signs shall be posted in toilet rooms and near lavatories, directing employees to wash their hands before starting work and after each interruption. Pump volutes and impellers shall be of material which is non-toxic. The facilities domestic sewage shall be discharged into a sewage disposal system constructed in accordance with state and local requirements.
- (h) Floors. Floors of rooms in which shellstock are handled or stored shall be constructed of concrete or other material impervious to water; shall be graded to drain quickly; shall be free from cracks and uneven surfaces that interfere with proper cleaning or drainage; and shall be maintained in good repair.
- (i) Walls and ceilings. The interior surfaces of rooms in which shellstock are handled or stored shall be smooth, washable, a light color, and kept in good repair.
- (j) Lighting. Natural or artificial light shall be provided in all working and storage rooms. Light bulbs, fixtures, or other glass suspended within the facility shall be of safety-type or otherwise protected to prevent contamination in case of breakage. The water surface of the depuration tanks shall not be subjected to direct sunlight.
- (k) Heating and ventilation. Working rooms shall be ventilated. Working rooms shall be equipped with heating equipment for use as necessary during the months of September to April.
- (l) Water supply. The water supply for non-depuration uses shall be from a source approved by the Division under Rule .0413 of this Subchapter.
- (m) Rodent control. The depuration facility shall comply with the provisions of Rule .0411 of this Subchapter.
- (n) General cleanliness. The depuration facility shall be kept clean and free of litter and rubbish. Miscellaneous and unused equipment and articles which are not necessary to the facility operations shall not be stored in rooms used for depuration or shellstock storage. Culled shellstock shall be removed promptly from the facility.
- (o) Health of personnel. Any person known to be infected with any disease in a communicable form, or to be a carrier of any disease which can be transmitted through the handling of shellfish, or who has an infected wound or open lesion on any exposed portion of his body, shall be excluded from handling shellfish in the facility.
- (p) Disposal of all waste water shall be permitted by the appropriate agency.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987.

**15A NCAC 18A .0704 LABORATORY PROCEDURES**

- (a) The laboratory and the laboratory operator shall be approved by the Division.
- (b) The laboratory shall conduct routine bacterial examinations of process water and shellfish, and special examinations when necessary or required in accordance with Rule .0706 of this Subchapter.
- (c) Bacterial examinations of shellfish and sea water shall be made in accordance with "Recommended Procedures for Examination of Sea Water and Shellfish", American Public Health Association, Inc., which is adopted by reference in accordance with G.S. 150B-14(c), or other methods approved by the Division. A copy of this publication is available for inspection at the Shellfish Sanitation Office, Marine Fisheries Building, Arendell Street, Morehead City, North Carolina 28557.
- (d) All other physical, chemical, or biological tests shall be conducted according to "Standard Methods for the Examination of Water and Waste Water", prepared and published by American Public Health Association, American Water Works Association, and Water Pollution Control Federation, which is adopted by reference in accordance with G.S. 150B-14(c), or other methods approved by the Division. A copy of this publication is available for inspection at the Shellfish Sanitation Office, Fisheries Building, Arendell Street, Morehead City, North Carolina 28557.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. September 1, 1991; September 1, 1990.

**15A NCAC 18A .0705 FACILITY OPERATIONS**

- (a) Source of shellfish. Shellfish shall be accepted for treatment at a shellfish depuration facility only from areas designated for this purpose by the Division and the Division of Marine Fisheries. A detailed description of all areas from which shellfish may be taken for depuration purposes, updated as necessary, shall be prepared by the Division and the Division of Marine Fisheries, and kept on file by the facility owner or operator. The facility operator shall inspect all containers of raw shellstock upon arrival at the facility to verify that they contain the shellfish species and quantity stated on the surveillance officer's reports.
- (b) Shellstock containers. Shellstock shall be accepted for treatment and released after depuration in clean containers only. All containers shall be constructed of non-absorbent and rust-proof material, and kept clean and free from foreign matter. Burlap bags or similar absorbent material shall not be used for transporting shellstock to the depuration facility nor for the removal of shellstock from the facility.
- (c) Culling. All untreated shellstock prior to, or upon arrival at the facility, shall be thoroughly inspected and culled. All dead shellfish, or shellfish in broken or cracked shells shall be disposed of in a manner approved by the Division. The owner or operator shall be held responsible for suitable culling and for the removal and disposal of dead shellfish or shellfish in broken or cracked shells after depuration.
- (d) Washing shellstock. Before and after depuration all shellstock shall be thoroughly washed or hosed with water taken from a source approved by the Division under Rule .0413 of this Subchapter. Immersion of shellstock for washing purposes is prohibited.
- (e) Depuration Baskets. All baskets used in the depuration process shall be made of impervious material and shall not be more than four inches deep. Baskets shall be of a design to allow water to flow freely over the shellstock in the depuration tanks. Shellstock shall not be placed more than three inches deep in the baskets. Baskets shall be stacked in a manner to allow free circulation of water. There shall be at least three inches clearance separating containers of shellfish in tanks and between the containers and the bottom and sides of the tank. Containers used for depuration purposes shall not be used for any other purpose and no containers or other equipment shall be placed in the depuration tanks.
- (f) Depuration. All shellstock upon receipt at the depuration facility, shall be immediately placed in depuration or placed in controlled storage. Shellstock shall be depurated for a period of 48 hours or longer as required to meet the bacteriological standards established in Rule .0709 of this Subchapter.
- (g) Washing depuration tanks. After each 24 hours the sea water in the tanks shall be drained out and the shellstock hosed down thoroughly with water from a supply approved by the Division under Rule .0413 of this Subchapter. All waste matter must be flushed out of the tank. Immediately after hosing, the tanks shall again be filled with treated sea water.
- (h) Scheduled process. A scheduled control purification process shall be established outlining the critical parameters for each depuration facility. This scheduled process shall be written and posted conspicuously at the depuration site.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987;  
Amended Eff. September 1, 1990; December 1, 1987.

**15A NCAC 18A .0706 SHELLFISH SAMPLING PROCEDURES**

- (a) Start-up phase. When shellfish are delivered to the depuration facility, the following schedule shall be followed:
  - (1) One or more shellfish samples (12 or more shellfish per sample) shall be collected for bacterial examination before the shellfish are submitted to the depuration process.

- (2) Three or more shellfish samples, randomly selected from three or more locations in each tank, shall be collected for bacterial examination after 24 hours of depuration.
  - (3) Three or more shellfish samples, randomly selected from three or more locations in each tank, shall be collected for bacterial examination after the shellfish have completed the depuration process.
- (b) The above schedule shall be followed until the time that the Division and the facility operator, after review of the results, determine that the shellfish from the area(s) are responding properly to the depuration process, and that the depuration process is successfully reducing bacterial levels. After the determination, the routine sampling procedures shall be followed. A routine sampling procedure defining a program of daily sampling shall be established by the Division. Written permission from the Division must be obtained before the initiation of routine monitoring procedures.
- (c) Any change in laboratory equipment, operators, or procedures, shall be approved by the Division.

*History Note:* Authority G.S. 130A-230;  
 Eff. February 1, 1987;  
 Amended Eff. September 1, 1990.

**15A NCAC 18A .0707 DEPURATION PROCESS WATER CONTROL - SAMPLING PROCEDURES**

The treatment of shellfish is a controlled process designed to reduce bacterial contamination to an acceptable level. To insure the continuing effectiveness of the shellfish depuration process, the minimum sampling procedure as described below shall be followed:

- (1) Incoming sea water;
  - (a) type of test: temperature, turbidity, salinity, dissolved oxygen, bacteriological;
  - (b) frequency: each time sea water is withdrawn;
- (2) Tank water;
  - (a) type of test: bacteriological;
  - (b) frequency: once per day per tank.

*History Note:* Authority G.S. 130A-230;  
 Eff. February 1, 1987.

**15A NCAC 18A .0708 DEPURATION TREATMENT PROCESS WATER - STANDARDS**

- (a) Water Source. Depuration process water shall not exceed fourteen fecal coliform Most Probable Number (MPN) per 100 milliliters of water prior to treatment.
- (b) Bacteriological. All water to be used in shellfish depuration tanks shall be subjected to ultraviolet light treatment. The tank water bacterial quality shall not exceed one total coliform Most Probable Number (MPN) per 100 milliliters of water.
- (c) Dissolved oxygen. The amount of dissolved oxygen in the water in the depuration tanks shall be at least five milligrams per liter and shall be measured daily.
- (d) Temperature. Depuration tank temperature shall be measured daily during the depuration process. Temperatures of sea water used in the depuration process shall not be below 50°F (10°C) nor above 77°F (25°C).
- (e) Turbidity. Turbidity in the depuration water shall not exceed 20 Jackson Turbidity Units or other equivalent methods and shall be measured daily.
- (f) Salinity. Salinity of the depuration water shall deviate no more than plus or minus 20 percent of the value of the harvest area and shall be measured daily.
- (g) pH. pH of the depuration water shall range from 7.0 to 8.4 and shall be measured daily.
- (h) Metallic ions and compounds. Levels of metallic ions and compounds shall not exceed levels found in approved shellfish harvesting areas and shall be measured if required by the Division.
- (i) Pesticides, detergents, and radionuclides. Levels of pesticides, detergents, and radionuclides shall not exceed levels found in approved harvesting areas and shall be measured if required by the Division.
- (j) Marine toxins. Levels of marine toxins in the incoming sea water and in the source water shall not exceed levels found in approved shellfish harvesting areas and shall be measured if required by the Division.

*History Note:* Authority G.S. 130A-230;  
 Eff. February 1, 1987.

**15A NCAC 18A .0709 DEPURATION - SHELLFISH MEAT STANDARDS**

Shellfish shall not be released for sale if the geometric mean of the fecal coliform MPN of the treated shellfish samples exceeds 20 per 100 grams of sample, or if more than 10 percent of the samples exceed a fecal coliform MPN of 70 per 100 grams of sample, or if any sample fecal coliform MPN exceeds 100 per 100 grams of sample.

- (1) The use of the Elevated Temperature Coliform Plate Count is authorized for the bacteriological evaluation of hard clams, Mercenaria species, and soft clam, Mya arenaria.

- (2) Should the Division suspect adulteration of shellfish by metallic ions and compounds, pesticides, detergents, radionuclides, marine toxins, or any toxic substance or adulterate, the Division shall require that shellfish meats be analyzed for these adulterants before suspect shellfish are released for sale.

*History Note: Authority G.A. 130A-230;  
Eff. February 1, 1987.*

#### **15A NCAC 18A .0710 ULTRAVIOLET UNIT**

Any ultraviolet unit which provides the required treatment and desired results may be used for the purification of water to be used in the depuration process. The unit shall be designed to deliver, at peak load, at least one gallon per minute of treated water per bushel of shellfish, measured by an approved measuring device or method.

- (1) Cautions and maintenance. Ultraviolet tubes shall be checked for intensity on a monthly basis and shall be replaced when they reach a point of 60 percent efficiency. A log of intensity shall be kept and an orderly numbering procedure for units and bulb established.
- (2) Ultraviolet tubes and reflectors shall be cleaned as necessary. Cleaning may be done with a clean damp cloth or sponge.
- (3) Signs stating "Ultraviolet Light Danger to Eyes - Do Not Look at Bulbs Without Eye Protection" shall be displayed in full view of personnel and authorized visitors. Skin protection, especially for the face and hands, shall be provided for personnel monitoring the bulbs. Eye protection may be accomplished by use of ordinary glasses with solid side pieces or special goggles made for this purpose. Protection for the head may be afforded by a hat and hand protection may be accomplished by the use of gloves. Face protection may be afforded by the use of certain clear plastics.
- (4) An automatic shutoff switch shall be provided to break the electric current, this shutting off the current to the ultraviolet bulb when the lid of the ultraviolet unit is raised.
- (5) A clock, off-on current recorder, or other device approved by the Division, shall be installed in line with all ultraviolet units to measure continuity of operation as well as to measure bulb life.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

#### **15A NCAC 18A .0711 SHELLSTOCK STORAGE**

(a) Refrigeration of shellstock. Treated shellstock shall be placed in cold storage if they are not released immediately. The temperature for cold storage shall be 50°F (10°C) or lower. A refrigerated storage room shall be provided for depurated shellstock. All untreated shellstock shall be kept in a separate shellstock storage room. Measures shall be taken to prevent the unauthorized removal of any shellstock. All shellstock shall be handled and stored under sanitary conditions in accordance with the rules in this Subchapter.

(b) Controlled storage. Shellstock which is received at the depuration facility which cannot be processed immediately shall be placed in controlled storage. In controlled storage the temperature shall be 50°F (10°C) or lower. A gradual change of temperature from the storage temperature to the depuration water temperature may then be necessary to insure proper treatment. Any shellstock which has been held under refrigeration at a depuration facility for more than 48 hours shall not be depurated.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

#### **15A NCAC 18A .0712 DEPURATION - TAGGING AND RELEASE OF SHELLFISH**

No shellstock shall be removed from the depuration facility until approved for release by the operator of the facility as provided in these Rules. All containers of depurated shellstock shall be tagged before being released from the shellstock depuration facility. The tag shall contain the name and permit number given the depuration facility by the Division, the quantity of shellstock, and the date the shellstock were released from the depuration facility.

*History Note: Authority G.S. 130A-230;  
Eff. February 1, 1987.*

#### **15A NCAC 18A .0713 DEPURATION - RECORDS**

Records containing the following information shall be available at the depuration facility at all times:

- (1) For shellstock presently undergoing the depuration process:
  - (a) name and location of harvesting area(s);
  - (b) depuration harvesting permit number(s);
  - (c) date received;

- (d) quantity of shellstock in tank(s); and
- (e) date and time of initiation of depuration.
- (2) For each lot of shellstock which have completed the depuration process:
  - (a) name and location of harvesting area(s);
  - (b) depuration harvesting permit number(s);
  - (c) date received into facility;
  - (d) date released from the facility;
  - (e) date and time of initiation of depuration;
  - (f) date and time of termination of depuration;
  - (g) number of hours depurated; and
  - (h) all laboratory results as specified.
- (3) Every two weeks the facility operator shall send to the Division a copy of the daily records required under this Rule and the results of all shellfish and water samples analyzed during that biweekly period.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987.

### **SECTION .0800 – WET STORAGE OF SHELLSTOCK**

Rules .0801 - .0806 of Title 15A Subchapter 10B of the North Carolina Administrative Code (T15A.10B .0801 - .0806); has been transferred and recodified from Rules .1301 - .1306 of Title 10 Subchapter 10B of the North Carolina Administrative Code (T10.10B .1301 -.1306), effective April 4, 1990.

#### **15A NCAC 18A .0801 GENERAL REQUIREMENTS**

The rules in Section .0400 shall apply for wet storage of shellstock.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987.

#### **15A NCAC 18A .0802 PLANT DESIGN: SANITATION: AND WET STORAGE**

Plant design, sanitation, and wet storage shall be approved by the Division.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987.

#### **15A NCAC 18A .0803 WET STORAGE WATER**

Water used for wet storage shall be approved by the Division.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987.

#### **15A NCAC 18A .0804 SHELLSTOCK CLEANING**

Shellstock shall be thoroughly washed with water from an approved source and culled to remove dead, broken, or cracked shellstock prior to wet storage in tanks.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987.

#### **15A NCAC 18A .0805 WET STORAGE TANKS**

Wet storage tanks shall be constructed of smooth, impervious materials approved by the Division and shall be kept clean.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987.

#### **15A NCAC 18A .0806 SHELLSTOCK CONTAINERS**

All containers used during wet storage shall be constructed of non-absorbant and rust-proof material, and shall be kept clean.

*History Note:* Authority G.S. 130A-230;  
Eff. February 1, 1987.

**SECTION .0900 – CLASSIFICATION OF SHELLFISH GROWING WATERS**

Rules .0901 - .0914 of Title 15A Subchapter 18A of the North Carolina Administrative Code (T15A.18A .0901 - .0914); has been transferred and recodified from Rules .1401 - .1414 of Title 10 Subchapter 10B of the North Carolina Administrative Code (T10.10B .1401 - .1414), effective April 4, 1990.

**15A NCAC 18A .0901 DEFINITIONS**

The following definitions shall apply throughout this Section.

- (1) "Approved area" means an area determined suitable for the harvesting of shellfish for direct market purposes.
- (2) "Closed - system marina" means a marina constructed in canals, basins, tributaries or any other area with restricted tidal flow.
- (3) "Commercial marina" means marinas that offer one or more of the following services: fuel, transient dockage, haul-out facilities, or repair services.
- (4) "Conditionally approved area" means an area subject to predictable intermittent pollution that may be used for harvesting shellfish for direct market purposes when management plan criteria are met.
- (5) "Depuration" means mechanical purification or the removal of adulteration from live shellstock by any artificially controlled method.
- (6) "Division" means the Division of Environmental Health or its authorized agent.
- (7) "Fecal coliform" means bacteria of the coliform group which will produce gas from lactose in a multiple tube procedure liquid medium (EC or A-1) within 24 plus or minus two hours at 44.5°C plus or minus 0.2°C in a water bath.
- (8) "Growing waters" means waters which support or could support shellfish life.
- (9) "Marina" means any water area with a structure (dock, basin, floating dock, etc.) which is utilized for docking or otherwise mooring vessels and constructed to provide temporary or permanent docking space for more than 10 boats.
- (10) "Marine biotoxins" means a poisonous substance accumulated by shellfish feeding upon dinoflagellates containing toxins.
- (11) "Most probable number (MPN)" means a statistical estimate of the number of bacteria per unit volume and is determined from the number of positive results in a series of fermentation tubes.
- (12) "Open - system marina" means a marina constructed in an area where tidal currents have not been impeded by natural or man-made barriers.
- (13) "Private marina" means any marina that is not a commercial marina as defined in this Rule.
- (14) "Prohibited area" means an area unsuitable for the harvesting of shellfish for direct market purposes.
- (15) "Public health emergency" means any condition that may immediately cause shellfish waters to be unsafe for the harvest of shellfish for human consumption.
- (16) "Relaying" means the act of removing shellfish from one growing area or shellfish grounds to another area or ground for any purpose.
- (17) "Restricted area" means an area from which shellfish may be harvested only by permit and subjected to an approved depuration process or relayed to an approved area.
- (18) "Sanitary survey" means the evaluation of factors that affect the sanitary quality of a shellfish growing area including sources of pollution, the effects of wind, tides and currents in the distribution and dilution of polluting materials, and the bacteriological quality of water.
- (19) "Shellfish" means oysters, mussels, scallops and all varieties of clams. However, the term shall not include scallops when the final product is the shucked adductor muscle only.
- (20) "Shoreline survey" means a visual inspection of the environmental factors that affect the sanitary quality of a growing area and identifies sources of pollution when possible.

*History Note: Authority G.S. 130A-230;  
Eff. June 1, 1989;  
Amended Eff. August 1, 1998; February 1, 1997; September 1, 1990.*

**15A NCAC 18A .0902 CLASSIFICATION OF SHELLFISH GROWING WATERS**

(a) All actual and potential shellfish growing areas shall be classified as to their suitability for shellfish harvesting. Growing waters shall be designated with one of the following classifications:

- (1) Approved area,
- (2) Conditionally approved area,
- (3) Restricted area, or
- (4) Prohibited area.

(b) Maps showing the boundaries and classification of growing areas shall be maintained by the Division.

*History Note: Authority G.S. 130A-230;  
Eff. June 1, 1989.*

**15A NCAC 18A .0903 SANITARY SURVEY**

- (a) Growing waters shall be divided into growing areas by the Division.
- (b) A sanitary survey shall be conducted for each growing area every three years except growing areas that are totally prohibited, and shall include the following:
  - (1) A shoreline survey to evaluate pollution sources that may affect the area.
  - (2) A hydrographic survey to evaluate meteorological and hydrographic factors that may affect distribution of pollutants.
  - (3) A bacteriological survey to assess water quality. A bacteriological survey shall include the collection of growing area water samples and their analysis for fecal coliforms. The number and location of sampling stations shall be selected to produce the data necessary to effectively evaluate point and non-point pollution sources. A minimum of 15 sets of samples shall be collected from growing areas during the three year evaluation period. Areas without a shoreline may be sampled less frequently.
- (c) Sanitary survey reports shall be prepared every three years.
- (d) All sanitary survey reports shall be maintained by the Division.

*History Note: Authority G.S. 130A-230;  
Eff. June 1, 1989.*

**15A NCAC 18A .0904 APPROVED AREAS**

An area classified as approved for shellfish harvesting for direct market purposes, must satisfy the following criteria as indicated by a sanitary survey:

- (1) the shoreline survey has indicated that there is no significant point source contamination;
- (2) the area is not contaminated with fecal material, pathogenic microorganisms, poisonous and deleterious substances, or marine biotoxins that may render consumption of the shellfish hazardous;
- (3) the median fecal coliform Most Probable Number (MPN) or the geometric mean MPN of water shall not exceed 14 per 100 milliliters, and not more than ten percent of the samples shall exceed a fecal coliform MPN of 43 per 100 milliliters (per five tube decimal dilution) in those portions of areas most probably exposed to fecal contamination during adverse pollution conditions.

*History Note: Authority G.S. 130A-230;  
Eff. June 1, 1989.*

**15A NCAC 18A .0905 CONDITIONALLY APPROVED AREAS**

- (a) An area may be classified as conditionally approved if the sanitary survey indicates the area will meet approved area classification criteria for a reasonable period of time and the factors determining these periods are known and predictable.
- (b) A written management plan shall be developed by the Division for conditionally approved areas.
- (c) When management plan criteria are met the Division may recommend to the Division of Marine Fisheries the area may be opened to shellfish harvesting on a temporary basis.
- (d) When management plan criteria are no longer met or public health appears to be jeopardized, the Division will recommend to the Division of Marine Fisheries immediate closure of the area to shellfish harvesting.

*History Note: Authority G.S. 130A-230;  
Eff. June 1, 1989.*

**15A NCAC 18A .0906 RESTRICTED AREAS**

- (a) An area may be classified as restricted when a sanitary survey indicates a limited degree of pollution and the area is not contaminated to the extent that indicates that consumption of shellfish could be hazardous after controlled depuration or relaying.
- (b) Relaying of shellfish shall be conducted in accordance with 15A NCAC 18A, Rules Governing the Sanitation of Shellfish.
- (c) Depuration of shellfish shall be conducted in accordance with 15A NCAC 18A, Rules Governing the Sanitation of Shellfish.

*History Note: Authority G.S. 130A-230;  
Eff. June 1, 1989.*

**15A NCAC 18A .0907 PROHIBITED AREAS**

A growing area shall be classified prohibited if there is no current sanitary survey or if the sanitary survey or other monitoring program data indicate that the area does not meet the criteria as specified in approved, conditionally approved or restricted classifications. The taking of shellfish for any human food purposes from such areas shall be prohibited.

*History Note: Authority G.S. 130A-230;  
Eff. June 1, 1989.*

**15A NCAC 18A .0908 UNSURVEYED AREAS**

Growing areas which have not been subjected to a sanitary survey shall be classified as prohibited.

*History Note: Authority G.S. 130A-230;  
Eff. June 1, 1989.*

**15A NCAC 18A .0909 BUFFER ZONE**

A prohibited area shall be established as a buffer zone around each wastewater treatment plant outfall.

*History Note: Authority G.S. 130A-230;  
Eff. June 1, 1989.*

**15A NCAC 18A .0910 RECLASSIFICATION**

- (a) Any upward revision of an area classification shall be supported by a sanitary survey and documented in the sanitary survey report.
- (b) A downward revision of an area classification may be made without a sanitary survey.
- (c) When growing waters are reclassified, appropriate recommendations shall be made to the Division of Marine Fisheries regarding the opening and closure of the waters for the harvest of shellfish for human consumption.

*History Note: Authority G.S. 130A-230;  
Eff. June 1, 1989.*

**15A NCAC 18A .0911 MARINAS: DOCKING FACILITIES: OTHER MOORING AREAS**

Classification of shellfish growing waters with respect to marinas, docking facilities, and other mooring areas shall be done in accordance with the following:

- (1) All waters within the immediate vicinity of a marina shall be classified as prohibited to the harvesting of shellfish for human consumption. Excluded from this classification are marinas with less than 30 slips, having no boats over 24 feet in length, no boats with heads and no boats with cabins. Marinas permitted prior to the effective date of this Rule may continue to have boats up to 21 feet in length with cabins and not be subject to the mandatory water classification of prohibited in the immediate vicinity of the marina.
- (2) Owners of marinas conforming to the exclusion provisions in Item (1) of this Rule shall make quarterly reports to the Division. These reports shall include the following information:
  - (a) number of slips;
  - (b) number and length of boats;
  - (c) number and length of boats with cabins;
  - (d) number of boats with heads; and
  - (e) number of boats with "porta-potties."
 Reports to the Division shall cover the occupancy of the marina on the fifth day of the first month of each quarter of the calendar year and shall be post marked on or before the fifteenth day of the reporting month.
- (3) The minimum requirement for the prohibited area beyond the marina shall be based on the number of slips and the type of marina (open or closed system). The prohibited area shall extend beyond the marina from all boat slips, docks, and docking facilities, according to the following:

Number of Slips in Marina	Size of Prohibited Area (Feet)	
	Open System	Closed System
11 – 25	100	200
26 – 50	150	275
51 – 75	175	325
76 – 100	200	400

- Open system marinas exceeding 100 slips shall require an additional 25 feet for each 25 slips or portion thereof over 100. A closed system marina shall require 50 feet for each 25 slips or portion thereof over 100. Closed system private or residential marinas with more than 75 slips shall require a prohibited area of the number of feet determined above, or 100 feet outside the entrance canal, whichever is greater. Closed system commercial marinas with more than 50 slips shall require a prohibited area of the number of feet determined above, or 100 feet outside the entrance canal, whichever is greater.
- (4) After a marina is put in use water quality impacts of marina facilities may require a change in classification. In determining if a change in classification is necessary, marina design, marina usage, dilution, dispersion, bacteriological, hydrographic, meteorological, and chemical factors will be considered.
  - (5) Areas, other than marinas, where boats are moored or docked may be considered on a case-by-case basis with respect to sanitary significance relative to actual or potential contamination and classification shall be made as necessary.
  - (6) The cumulative impacts of multiple marinas, entrance canals, or other mooring areas, in close proximity to each other are expected to adversely affect public trust waters. When these situations occur the Division will recommend closures exceeding those outlined in Item (3) of this Rule. The following guides will be used in determining close proximity:
    - (a) marina entrance canals within 225 feet of each other;
    - (b) open system marinas within 450 feet of each other (Mooring areas shall be considered open system marinas);
    - (c) where closure areas meet or overlap; and
    - (d) open system marinas within 300 feet of a marina entrance canal.

*History Note:* Authority G.S. 130A-230;  
Eff. June 1, 1989;  
Amended Eff. July 1, 1993.

#### **15A NCAC 18A .0912 SHELLFISH MANAGEMENT AREAS**

When the Division of Marine Fisheries begins operations to relocate shellfish from a restricted or conditionally approved area to an approved area, the Division will recommend to the Division of Marine Fisheries that the area of relocation be closed until cleansing requirements for relayed shellfish have been satisfied.

*History Note:* Authority G.S. 130A-230;  
Eff. June 1, 1989.

#### **15A NCAC 18A .0913 PUBLIC HEALTH EMERGENCY**

- (a) The Division shall recommend to the Division of Marine Fisheries immediate closure of shellfish waters to the harvesting of shellfish in the event of a public health emergency.
- (b) The Division shall recommend to the Division of Marine Fisheries re-opening shellfish waters when the condition causing the public health emergency no longer exists and shellfish have had sufficient time to purify naturally from possible contamination.

*History Note:* Authority G.S. 130A-230;  
Eff. June 1, 1989.

#### **15A NCAC 18A .0914 LABORATORY PROCEDURES**

All laboratory examinations for water and shellfish used for the evaluation of growing areas shall be made in accordance with the latest approved edition by the Food and Drug Administration of "Recommended Procedures for Examination of Sea Water and Shellfish", American Public Health Association, Inc., which is adopted by reference in accordance with G.S. 150B-14(c). A copy of this publication is available for inspection at the Shellfish Sanitation Office, Marine Fisheries Building, Arendell Street, Morehead City, North Carolina 28557.

*History Note:* Authority G.S. 130A-230;  
Eff. June 1, 1989;  
Amended Eff. September 1, 1991; September 1, 1990.

**SECTION .3400 – COASTAL RECREATIONAL WATERS MONITORING, EVALUATION, AND NOTIFICATION**

**15A NCAC 18A .3401 DEFINITIONS**

The following definitions shall apply throughout Section 18A .3400 of this Subchapter:

- (1) "Enterococcus" means a gram positive coccoid-shaped bacteria that is found in the intestinal tracts of warm-blooded animals that include *Enterococcus faecalis*, *Enterococcus faecium*, *Enterococcus avium*, and *Enterococcus gallinarium*.
- (2) "Geometric mean" means the mean of "n" positive numbers obtained by taking the "n"<sup>th</sup> root of the product of the numbers with at least five samples collected within a 30 day period.
- (3) "Point source discharge" means the discharge of liquids through a pipe, drain, ditch or other conveyance into a swimming area.
- (4) "Primary contact" means an activity in water in which a person's head is partially or completely submerged.
- (5) "Storm water discharge" means any natural or manmade conveyance of rainwater or the resultant runoff into recreational waters.
- (6) "Swimming advisory" means a notification to the public that recommends no primary contact with the water in a specific area for public health reasons but does not close a swimming area to the public. A swimming advisory shall include a sign posted at the site of the advisory and a press release to notify the public of the risks of swimming in the area.
- (7) "Swimming alert" means a notification to the public by media contact including a press release to warn the public of risks of swimming in an area that exceeds bacteriological swimming area levels.
- (8) "Swimming area" means a coastal recreation area that is used for primary contact located within waters classified by the Division of Water Quality as SA, SB, or SC.
- (9) "Swimming season" means from April 1 through October 31 of each year.
- (10) "Tier I swimming area" means a swimming area used daily during the swimming season, including any public access swimming area and any other swimming area where people use the water for primary contact, including all oceanfront beaches.
- (11) "Tier II swimming area" means a swimming area used an average of three days a week during the swimming season.
- (12) "Tier III swimming area" means a swimming area used an average of four days a month during the swimming season.
- (13) "Winter season" means from November 1 through March 31 of each year.

*History Note: Authority G.S. 130A-233.1;  
Eff. February 1, 2004.*

**15A NCAC 18A .3402 BACTERIOLOGICAL LIMITS FOR SWIMMING AREAS**

- (a) The enterococcus level in a Tier I swimming area shall not exceed either:
  - (1) A geometric mean of 35 enterococci per 100 milliliter of water, that includes a minimum of at least five samples collected within 30 days; or
  - (2) A single sample of 104 enterococci per 100 milliliter of water.
- (b) The enterococcus level in a Tier II swimming area shall not exceed a single sample of 276 enterococci per 100 milliliter of water.
- (c) The enterococcus level in a Tier III swimming area shall not exceed two consecutive samples of 500 enterococci per 100 milliliter of water.

*History Note: Authority G.S. 130A-233.1;  
Eff. February 1, 2004.*

**15A NCAC 18A .3403 PUBLIC NOTICE OF INCREASED HEALTH RISKS IN SWIMMING AREAS**

- (a) Tier I Swimming areas:
  - (1) A swimming advisory shall be issued by the Division when samples of water from a swimming area exceeds a geometric mean of 35 enterococci per 100 milliliter during the swimming season.
  - (2) A swimming alert shall be issued by the Division when a single sample of water from a swimming area exceeds 104 enterococci per 100 milliliter and does not exceed 500 enterococci per 100 milliliter during the swimming season.
  - (3) A swimming advisory shall be issued by the Division when a sample of water from a swimming area exceeds a single sample of 500 enterococci per 100 milliliter during the swimming season.

- (4) A swimming advisory shall be issued by the Division when at least two of three concurrent water samples collected at a swimming area exceeds 104 enterococci per 100 milliliter during the swimming season.
- (b) Tier II swimming areas:
- (1) A swimming alert shall be issued by the Division when a single sample of water from a swimming area exceeds 276 enterococci per 100 milliliter and does not exceed 500 enterococci per 100 milliliter during the swimming season.
  - (2) A swimming advisory shall be issued by the Division when a single sample of water from a swimming area exceeds 500 enterococci per 100 milliliter during the swimming season.
- (c) A Tier III swimming area with a water sample result of 500 enterococci per 100 milliliter or higher on the first sample shall be resampled the following day. If the laboratory results of the second sample exceed 500 enterococci per 100 milliliter a swimming advisory shall be issued by the Division.
- (d) Signs posted pursuant to this Section shall be placed or erected in open view where the public may see the sign(s) prior to entering the water.
- (e) Signs shall convey the following:  
**ATTENTION: SWIMMING IN THIS AREA IS NOT RECOMMENDED. BACTERIA TESTING INDICATES LEVELS OF CONTAMINATION THAT MAY BE HAZARDOUS TO YOUR HEALTH. THIS ADVISORY AFFECTS WATERS WITHIN 200' OF THIS SIGN. OFFICE OF THE STATE HEALTH DIRECTOR.**

*History Note: Authority G.S. 130A-233.1;  
 Eff. February 1, 2004.*

**15A NCAC 18A .3404 SWIMMING ADVISORIES FOR POINT SOURCE DISCHARGES INTO SWIMMING AREAS**

- (a) A wastewater treatment plant that discharges into swimming waters shall be posted by the Division with at least one sign until the discharge is removed. The sign(s) for a wastewater treatment plant discharge shall convey the following:  
**ATTENTION: THESE WATERS MAY BE CONTAMINATED BY HUMAN OR ANIMAL WASTE. SWIMMING IS NOT ADVISED IN THESE WATERS BECAUSE OF THE INCREASED RISK OF ILLNESS. OFFICE OF THE STATE HEALTH DIRECTOR.**
- (b) A swimming advisory shall be issued by the Division and at least two signs shall be posted at a storm drain or storm water discharge that is actively discharging into a swimming area. Signs shall be placed to advise the public as they enter the area impacted by the drain. The signs for a storm drain or storm water discharge shall convey the following:  
**SWIMMING IS NOT RECOMMENDED BETWEEN SIGNS. WATERS MAY BE CONTAMINATED BY DISCHARGE FROM PIPE. OFFICE OF THE STATE HEALTH DIRECTOR.**
- (c) A swimming advisory shall be issued by the Division and at least two signs shall be posted at a storm drain where flood waters are being pumped into a swimming area. The signs shall remain posted for at least 24 hours after the pumping of flood waters has ceased. The signs shall convey the following:  
**SWIMMING IS NOT RECOMMENDED BETWEEN SIGNS. WATERS MAY BE CONTAMINATED BY DISCHARGE FROM PIPE. OFFICE OF THE STATE HEALTH DIRECTOR.**
- (d) A swimming advisory shall be issued by the Division and at least two signs shall be posted at an area receiving dredge material on a swimming beach when the dredge material is being pumped from an area closed to shellfish harvesting. The signs shall convey the following:  
**SWIMMING IS NOT RECOMMENDED BETWEEN SIGNS. WATERS MAY BE CONTAMINATED BY DISCHARGE FROM PIPE. OFFICE OF THE STATE HEALTH DIRECTOR.**

*History Note: Authority G.S. 130A-233.1;  
 Eff. January 1, 2004.*

**15A NCAC 18A .3405 RESCINDING A SWIMMING ADVISORY OR SWIMMING ALERT**

- (a) A Tier I swimming area advisory shall be rescinded when two consecutive weekly water samples and the geometric mean meet the bacteriological limits in Rule 18A .3402(a) of this Section. A swimming alert shall be rescinded within 24 hours of compliance with Rule 18A .3402(a)(2) of this Section.
- (b) A Tier II or Tier III swimming area advisory or alert shall be rescinded after water samples meet the bacteriological standard in Rule 18A .3402(b) or (c) of this Section.
- (c) A swimming advisory resulting from a point source discharge or the discharge of dredge material shall be rescinded 24 hours after the discharge has ceased.
- (d) When a swimming advisory or alert has been rescinded, the Division shall issue a press release to announce the lifting of the advisory or the alert and the sign(s) shall be removed immediately by the Division.

*History Note:* Authority G.S. 130A-233.1;  
Eff. January 1, 2004.

**15A NCAC 18A .3406 DESTRUCTION OF SIGNS**

A person shall not mutilate, deface, pull down, destroy, hide, or steal any sign posted pursuant to this Section.

*History Note:* Authority G.S. 130A-233.1;  
Eff. January 1, 2004.

**15A NCAC 18A .3407 APPLICABILITY OF RULES**

The rules of this Section shall apply to all marine recreational waters in coastal North Carolina.

*History Note:* Authority G.S. 130A-233.1;  
Eff. January 1, 2004.

**SELECTED NORTH CAROLINA GENERAL STATUTES**

**G.S. 14-4.1. Legislative review of regulatory crimes.**

- (a) Any rule adopted or amended pursuant to Article 2A of Chapter 150B of the General Statutes that creates a new criminal offense or otherwise subjects a person to criminal penalties is subject to G.S. 150B-21.3(b1) regardless of whether the rule received written objections from 10 or more persons pursuant to G.S. 150B-21.3(b2).
- (b) This section applies to rules adopted on or after January 1, 2020. (2019-198, s. 1.)

**G.S. 14-32. Felonious assault with deadly weapon with intent to kill or inflicting serious injury; punishments.**

- (a) Any person who assaults another person with a deadly weapon with intent to kill and inflicts serious injury shall be punished as a Class C felon.
- (b) Any person who assaults another person with a deadly weapon and inflicts serious injury shall be punished as a Class E felon.
- (c) Any person who assaults another person with a deadly weapon with intent to kill shall be punished as a Class E felon. (1919, c. 101; C.S., s. 4214; 1931, c. 145, s. 30; 1969, c. 602, s. 2; 1971, c. 765, s. 1, c. 1093, s. 12; 1973, c. 229, ss. 1-3; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, s. 1138; 1994, Ex. Sess., c. 24, s. 14(c).)

**G.S. 14-33. Misdemeanor assaults, batteries, and affrays, simple and aggravated; punishments.**

- (a) Any person who commits a simple assault or a simple assault and battery or participates in a simple affray is guilty of a Class 2 misdemeanor.
- (b) Unless his conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class 1 misdemeanor if, in the course of the assault, assault and battery, or affray, he:
  - (1) through (3) Repealed by Session Laws 1995, c. 507, s. 19.5(b);
  - (4) through (7) Repealed by Session Laws 1991, c. 525, s. 1;
  - (8) Repealed by Session Laws 1995, c. 507, s. 19.5(b);
  - (9) Commits an assault and battery against a sports official when the sports official is discharging or attempting to discharge official duties at a sports event, or immediately after the sports event at which the sports official discharged official duties. A "sports official" is a person at a sports event who enforces the rules of the event, such as an umpire or referee, or a person who supervises the participants, such as a coach. A "sports event" includes any interscholastic or intramural athletic activity in a primary, middle, junior high, or high school, college, or university, any organized athletic activity sponsored by a community, business, or nonprofit organization, any athletic activity that is a professional or semiprofessional event, and any other organized athletic activity in the State.
- (c) Unless the conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class A1 misdemeanor if, in the course of the assault, assault and battery, or affray, he or she:
  - (1) Inflicts serious injury upon another person or uses a deadly weapon;
  - (2) Assaults a female, he being a male person at least 18 years of age;
  - (3) Assaults a child under the age of 12 years;
  - (4) Assaults an officer or employee of the State or any political subdivision of the State, when the officer or employee is discharging or attempting to discharge his official duties;
  - (5) Repealed by Session Laws 1999-105, s. 1, effective December 1, 1999; or
  - (6) Assaults a school employee or school volunteer when the employee or volunteer is discharging or attempting to discharge his or her duties as an employee or volunteer, or assaults a school employee or school volunteer as a result of the discharge or attempt to discharge that individual's duties as a school employee or school volunteer. For purposes of this subdivision, the following definitions shall apply:
    - a. "Duties" means:
      - 1. All activities on school property;
      - 2. All activities, wherever occurring, during a school authorized event or the accompanying of students to or from that event; and
      - 3. All activities relating to the operation of school transportation.
    - b. "Employee" or "volunteer" means:
      - 1. An employee of a local board of education; or a charter school authorized under G.S. 115C-218.5, or a nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes;
      - 2. An independent contractor or an employee of an independent contractor of a local board of education, charter school authorized under G.S. 115C-218.5, or a

nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes, if the independent contractor carries out duties customarily performed by employees of the school; and

3. An adult who volunteers his or her services or presence at any school activity and is under the supervision of an individual listed in sub-sub-subdivision 1. or 2. of this sub-subdivision.
- (7) Assaults a public transit operator, including a public employee or a private contractor employed as a public transit operator, when the operator is discharging or attempting to discharge his or her duties.
- (8) Assaults a company police officer certified pursuant to the provisions of Chapter 74E of the General Statutes or a campus police officer certified pursuant to the provisions of Chapter 74G, Article 1 of Chapter 17C, or Chapter 116 of the General Statutes in the performance of that person's duties.
- (9) Assaults a transportation network company (TNC) driver providing a transportation network company (TNC) service. For the purposes of this subdivision, the definitions for "TNC driver" and "TNC service" as defined in G.S. 20-280.1 shall apply.

(c1) No school personnel as defined in G.S. 14-33(c)(6) who takes reasonable actions in good faith to end a fight or altercation between students shall incur any civil or criminal liability as the result of those actions.

(d) Any person who, in the course of an assault, assault and battery, or affray, inflicts serious injury upon another person, or uses a deadly weapon, in violation of subdivision (c)(1) of this section, on a person with whom the person has a personal relationship, and in the presence of a minor, is guilty of a Class A1 misdemeanor. A person convicted under this subsection, who is sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court.

A person committing a second or subsequent violation of this subsection shall be sentenced to an active punishment of no less than 30 days in addition to any other punishment imposed by the court.

The following definitions apply to this subsection:

- (1) "Personal relationship" is as defined in G.S. 50B-1(b).
- (2) "In the presence of a minor" means that the minor was in a position to see or hear the assault.
- (3) "Minor" is any person under the age of 18 years who is residing with or is under the care and supervision of, and who has a personal relationship with, the person assaulted or the person committing the assault. (1870-1, c. 43, s. 2; 1873-4, c. 176, s. 6; 1879, c. 92, ss. 2, 6; Code, s. 987; Rev., s. 3620, 1911, c. 193; C.S., s. 4215; 1933, c. 189; 1949, c. 298; 1969, c. 618, s. 1; 1971, c. 765, s. 2; 1973, c. 229, s. 4; c. 1413; 1979, cc. 524, 656; 1981, c. 180; 1983, c. 175, ss. 6, 10; c. 720, s. 4; 1985, c. 321; 1991, c. 525, s. 1; 1993, c. 286, s. 1; c. 539, s. 16; 1994, Ex. Sess., c. 14, s. 3; c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 687, s. 1; 1995, c. 352, s. 1; 1995, c. 507, s. 19.5(b); 1999-105, s. 1; 2003-409, s. 1; 2004-26, s. 1; 2004-199, s. 7; 2005-231, s. 6.2; 2012-149, s. 1; 2014-101, s. 7; 2015-62, s. 4(b); 2019-194, s. 3.5(a).)

**G.S. 14-72. Larceny of property; receiving stolen goods or possessing stolen goods.**

- (a) Larceny of goods of the value of more than one thousand dollars (\$1,000) is a Class H felony. The receiving or possessing of stolen goods of the value of more than one thousand dollars (\$1,000) while knowing or having reasonable grounds to believe that the goods are stolen is a Class H felony. Larceny as provided in subsection (b) of this section is a Class H felony. Receiving or possession of stolen goods as provided in subsection (c) of this section is a Class H felony. Except as provided in subsections (b) and (c) of this section, larceny of property, or the receiving or possession of stolen goods knowing or having reasonable grounds to believe them to be stolen, where the value of the property or goods is not more than one thousand dollars (\$1,000), is a Class 1 misdemeanor. In all cases of doubt, the jury shall, in the verdict, fix the value of the property stolen.
- (b) The crime of larceny is a felony, without regard to the value of the property in question, if the larceny is any of the following:
  - (1) From the person.
  - (2) Committed pursuant to a violation of G.S. 14-51, 14-53, 14-54, 14-54.1, or 14-57.
  - (3) Of any explosive or incendiary device or substance. As used in this section, the phrase "explosive or incendiary device or substance" shall include any explosive or incendiary grenade or bomb; any dynamite, blasting powder, nitroglycerin, TNT, or other high explosive; or any device, ingredient for such device, or type or quantity of substance primarily useful for large-scale destruction of property by explosive or incendiary action or lethal injury to persons by explosive or incendiary action. This definition shall not include fireworks; or any form, type, or quantity of gasoline, butane gas, natural gas, or any other substance having explosive or incendiary properties but serving a legitimate nondestructive or nonlethal use in the form, type, or quantity stolen.
  - (4) Of any firearm. As used in this section, the term "firearm" shall include any instrument used in the propulsion of a shot, shell or bullet by the action of gunpowder or any other explosive substance within

- it. A "firearm," which at the time of theft is not capable of being fired, shall be included within this definition if it can be made to work. This definition shall not include air rifles or air pistols.
- (5) Of any record or paper in the custody of the North Carolina State Archives as defined by G.S. 121-2(7) and G.S. 121-2(8).
- (6) Committed after the defendant has been convicted in this State or in another jurisdiction for any offense of larceny under this section, or any offense deemed or punishable as larceny under this section, or of any substantially similar offense in any other jurisdiction, regardless of whether the prior convictions were misdemeanors, felonies, or a combination thereof, at least four times. A conviction shall not be included in the four prior convictions required under this subdivision unless the defendant was represented by counsel or waived counsel at first appearance or otherwise prior to trial or plea. If a person is convicted of more than one offense of misdemeanor larceny in a single session of district court, or in a single week of superior court or of a court in another jurisdiction, only one of the convictions may be used as a prior conviction under this subdivision; except that convictions based upon offenses which occurred in separate counties shall each count as a separate prior conviction under this subdivision.
- (c) The crime of possessing stolen goods knowing or having reasonable grounds to believe them to be stolen in the circumstances described in subsection (b) is a felony or the crime of receiving stolen goods knowing or having reasonable grounds to believe them to be stolen in the circumstances described in subsection (b) is a felony, without regard to the value of the property in question.
- (d) Where the larceny or receiving or possession of stolen goods as described in subsection (a) of this section involves the merchandise of any store, a merchant, a merchant's agent, a merchant's employee, or a peace officer who detains or causes the arrest of any person shall not be held civilly liable for detention, malicious prosecution, false imprisonment, or false arrest of the person detained or arrested, when such detention is upon the premises of the store or in a reasonable proximity thereto, is in a reasonable manner for a reasonable length of time, and, if in detaining or in causing the arrest of such person, the merchant, the merchant's agent, the merchant's employee, or the peace officer had, at the time of the detention or arrest, probable cause to believe that the person committed an offense under subsection (a) of this section. If the person being detained by the merchant, the merchant's agent, or the merchant's employee, is a minor under the age of 18 years, the merchant, the merchant's agent, or the merchant's employee, shall call or notify, or make a reasonable effort to call or notify the parent or guardian of the minor, during the period of detention. A merchant, a merchant's agent, or a merchant's employee, who makes a reasonable effort to call or notify the parent or guardian of the minor shall not be held civilly liable for failing to notify the parent or guardian of the minor. (1895, c. 285; Rev., s. 3506; 1913, c. 118, s. 1; C.S., s. 4251; 1941, c. 178, s. 1; 1949, c. 145, s. 2; 1959, c. 1285; 1961, c. 39, s. 1; 1965, c. 621, s. 5; 1969, c. 522, s. 2; 1973, c. 238, ss. 1, 2; 1975, c. 163, s. 2; c. 696, s. 4; 1977, c. 978, ss. 2, 3; 1979, c. 408, s. 1; c. 760, s. 5; 1979, 2nd Sess., c. 1316, ss. 11, 47; 1981, c. 63, s. 1; c. 179, s. 14; 1991, c. 523, s. 2; 1993, c. 539, s. 34; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 185, s. 2; 2006-259, s. 4(a); 2012-154, s. 1.)

**G.S. 14-113.20. Identity theft.**

- (a) A person who knowingly obtains, possesses, or uses identifying information of another person, living or dead, with the intent to fraudulently represent that the person is the other person for the purposes of making financial or credit transactions in the other person's name, to obtain anything of value, benefit, or advantage, or for the purpose of avoiding legal consequences is guilty of a felony punishable as provided in G.S. 14-113.22(a).
- (b) The term "identifying information" as used in this Article includes the following:
- (1) Social security or employer taxpayer identification numbers.
  - (2) Drivers license, State identification card, or passport numbers.
  - (3) Checking account numbers.
  - (4) Savings account numbers.
  - (5) Credit card numbers.
  - (6) Debit card numbers.
  - (7) Personal Identification (PIN) Code as defined in G.S. 14-113.8(6).
  - (8) Electronic identification numbers, electronic mail names or addresses, Internet account numbers, or Internet identification names.
  - (9) Digital signatures.
  - (10) Any other numbers or information that can be used to access a person's financial resources.
  - (11) Biometric data.
  - (12) Fingerprints.
  - (13) Passwords.
  - (14) Parent's legal surname prior to marriage.
- (c) It shall not be a violation under this Article for a person to do any of the following:
- (1) Lawfully obtain credit information in the course of a bona fide consumer or commercial transaction.

- (2) Lawfully exercise, in good faith, a security interest or a right of offset by a creditor or financial institution.
- (3) Lawfully comply, in good faith, with any warrant, court order, levy, garnishment, attachment, or other judicial or administrative order, decree, or directive, when any party is required to do so. (1999-449, s. 1; 2000-140, s. 37; 2002-175, s. 4; 2005-414, s. 6.)

**G.S. 14-384. Injuring notices and advertisements.**

If any person shall wantonly or maliciously mutilate, deface, pull or tear down, destroy or otherwise damage any notice, sign or advertisement, unless immoral or obscene, whether put up by an officer of the law in performance of the duties of his office or by some other person for a lawful purpose, before the object for which such notice, sign or advertisement was posted shall have been accomplished, he shall be guilty of a Class 3 misdemeanor. Nothing herein contained shall apply to any person mutilating, defacing, pulling or tearing down, destroying or otherwise damaging notices, signs or advertisements put upon his own land or lands of which he may have charge or control, unless consent of such person to put up such notice, sign or advertisement shall have first been obtained, except those put up by an officer of the law in the performance of the duties of his office. (1885, c. 302; Rev., s. 3709; C.S., s. 4503; 1993, c. 539, s. 256; 1994, Ex. Sess., c. 24, s. 14(c).)

**G.S. 14-399. Littering.**

(a) No person, including any firm, organization, private corporation, or governing body, agents or employees of any municipal corporation shall intentionally or recklessly throw, scatter, spill or place or intentionally or recklessly cause to be blown, scattered, spilled, thrown or placed or otherwise dispose of any litter upon any public property or private property not owned by the person within this State or in the waters of this State including any public highway, public park, lake, river, ocean, beach, campground, forestland, recreational area, trailer park, highway, road, street or alley except:

- (1) When the property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and the person is authorized to use the property for this purpose; or
- (2) Into a litter receptacle in a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of the private or public property or waters.

(a1) No person, including any firm, organization, private corporation, or governing body, agents, or employees of any municipal corporation shall scatter, spill, or place or cause to be blown, scattered, spilled, or placed or otherwise dispose of any litter upon any public property or private property not owned by the person within this State or in the waters of this State including any public highway, public park, lake, river, ocean, beach, campground, forestland, recreational area, trailer park, highway, road, street, or alley except:

- (1) When the property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and the person is authorized to use the property for this purpose; or
- (2) Into a litter receptacle in a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of the private or public property or waters.

(a2) Subsection (a1) of this section does not apply to the accidental blowing, scattering, or spilling of an insignificant amount of municipal solid waste, as defined in G.S. 130A-290(18a), during the automated loading of a vehicle designed and constructed to transport municipal solid waste if the vehicle is operated in a reasonable manner and according to manufacturer specifications.

(b) When litter is blown, scattered, spilled, thrown or placed from a vehicle or watercraft, the operator thereof shall be presumed to have committed the offense. This presumption, however, does not apply to a vehicle transporting nontoxic and biodegradable agricultural or garden products or supplies, including mulch, tree bark, wood chips, and raw logs.

(c) Any person who violates subsection (a) of this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than two hundred fifty dollars (\$250.00) nor more than one thousand dollars (\$1,000) for the first offense. In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent violation of subsection (a) of this section in an amount not exceeding 15 pounds and not for commercial purposes within three years after the date of a prior violation is a Class 3 misdemeanor punishable by a fine of not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(c1) Any person who violates subsection (a1) of this section in an amount not exceeding 15 pounds is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100.00). In addition, the court may require the violator to perform community service of not less than four hours nor more than 12 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent violation of subsection (a1) of this section in an amount not exceeding 15 pounds within three

years after the date of a prior violation is an infraction punishable by a fine of not more than two hundred dollars (\$200.00). In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. For purposes of this subsection, the term "litter" shall not include nontoxic and biodegradable agricultural or garden products or supplies, including mulch, tree bark, and wood chips.

(d) Any person who violates subsection (a) of this section in an amount exceeding 15 pounds but not exceeding 500 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000). In addition, the court shall require the violator to perform community service of not less than 24 hours nor more than 100 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other community service commensurate with the offense committed.

(d1) Any person who violates subsection (a1) of this section in an amount exceeding 15 pounds but not exceeding 500 pounds is guilty of an infraction punishable by a fine of not more than two hundred dollars (\$200.00). In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(e) Any person who violates subsection (a) of this section in an amount exceeding 500 pounds or in any quantity for commercial purposes, or who discards litter that is a hazardous waste as defined in G.S. 130A-290 is guilty of a Class I felony.

(e1) Any person who violates subsection (a1) of this section in an amount exceeding 500 pounds is guilty of an infraction punishable by a fine of not more than three hundred dollars (\$300.00). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(e2) If any person violates subsection (a) or (a1) of this section in an amount exceeding 15 pounds or in any quantity for commercial purposes, or discards litter that is a hazardous waste as defined in G.S. 130A-290, the court shall order the violator to:

- (1) Remove, or render harmless, the litter that he discarded in violation of this section;
- (2) Repair or restore property damaged by, or pay damages for any damage arising out of, his discarding litter in violation of this section; or
- (3) Perform community public service relating to the removal of litter discarded in violation of this section or to the restoration of an area polluted by litter discarded in violation of this section.

(f) A court may enjoin a violation of this section.

(f1) If a violation of subsection (a) of this section involves the operation of a motor vehicle, upon a finding of guilt, the court shall forward a record of the finding to the Department of Transportation, Division of Motor Vehicles, which shall record a penalty of one point on the violator's drivers license pursuant to the point system established by G.S. 20-16. There shall be no insurance premium surcharge or assessment of points under the classification plan adopted under G.S. 58-36-65 for a finding of guilt under this section.

(g) A motor vehicle, vessel, aircraft, container, crane, winch, or machine involved in the disposal of more than 500 pounds of litter in violation of subsection (a) of this section is declared contraband and is subject to seizure and summary forfeiture to the State.

(h) If a person sustains damages arising out of a violation of subsection (a) of this section that is punishable as a felony, a court, in a civil action for the damages, shall order the person to pay the injured party threefold the actual damages or two hundred dollars (\$200.00), whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney's fees.

(i) For the purpose of the section, unless the context requires otherwise:

- (1) "Aircraft" means a motor vehicle or other vehicle that is used or designed to fly, but does not include a parachute or any other device used primarily as safety equipment.
- (2) Repealed by Session Laws 1999-454, s. 1.
- (2a) "Commercial purposes" means litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of the entity.
- (3) "Law enforcement officer" means any law enforcement officer sworn and certified pursuant to Article 1 of Chapter 17C or 17E of the General Statutes, except company police officers as defined in G.S. 74E-6(b)(3). In addition, and solely for the purposes of this section, "law enforcement officer" means any employee of a county or municipality designated by the county or municipality as a litter enforcement officer.
- (4) "Litter" means any garbage, rubbish, trash, refuse, can, bottle, box, container, wrapper, paper, paper product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, sludge from a waste treatment facility, water supply treatment plant, or air pollution

control facility, dead animal, or discarded material in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. While being used for or distributed in accordance with their intended uses, "litter" does not include political pamphlets, handbills, religious tracts, newspapers, and other similar printed materials the unsolicited distribution of which is protected by the Constitution of the United States or the Constitution of North Carolina.

(5) "Vehicle" has the same meaning as in G.S. 20-4.01(49).

(6) "Watercraft" means any boat or vessel used for transportation across the water.

(j) It shall be the duty of all law enforcement officers to enforce the provisions of this section.

(k) This section does not limit the authority of any State or local agency to enforce other laws, rules or ordinances relating to litter or solid waste management. (1935, c. 457; 1937, c. 446; 1943, c. 543; 1951, c. 975, s. 1; 1953, cc. 387, 1011; 1955, c. 437; 1957, cc. 73, 175; 1959, c. 1173; 1971, c. 165; 1973, c. 877; 1977, c. 887, s. 1; 1979, c. 1065, s. 1; 1983, c. 890; 1987, cc. 208, 757; 1989, c. 784, ss. 7.1, 8; 1991, c. 609, s. 1; c. 720, s. 49; c. 725, s. 1; 1993, c. 539, ss. 266, 267, 1241; 1994, Ex. Sess., c. 24, s. 14(c); 1997-518, s. 1; 1998-217, s. 2; 1999-294, s. 4; 1999-454, s. 1; 2001-512, s. 1; 2018-5, s. 17.1(a).)

#### **G.S. 76-40. Navigable waters; certain practices regulated.**

(a) It shall be unlawful for any person, firm or corporation to place, deposit, leave or cause to be placed, deposited or left, either temporarily or permanently, any trash, refuse, rubbish, garbage, debris, rubble, scrapped vehicle or equipment or other similar waste material in or upon any body of navigable water in this State; "waste material" shall not include spoil materials lawfully dug or dredged from navigable waters and deposited in spoil areas designated by the Department of Environmental Quality; violation of this section shall constitute a Class 2 misdemeanor.

(a1) It shall be unlawful for any person, firm or corporation to place, deposit, leave or cause to be placed, deposited, or left, either temporarily or permanently, any medical waste as defined in G.S. 130A-290 in the open waters of the Atlantic Ocean over which the State has jurisdiction or the navigable waters of this State.

(1) A person who willfully violates this subsection is guilty of a Class 1 misdemeanor.

(2) A person who willfully violates this subsection and in so doing releases medical waste that creates a substantial risk of physical injury to any person who is not a participant in the offense is guilty of a Class F felony which may include a fine not to exceed fifty thousand dollars (\$50,000) per day of violation.

(b) No person, firm or corporation shall erect upon the floor of, or in or upon, any body of navigable water in this State, any sign or other structure, without having first secured a permit to do so from the appropriate federal agencies (which would include a permit from the State of North Carolina) or from the Department of Administration, or from the agency designated by the Department to issue such permit. Provided, however, this subsection shall not apply to commercial fishing nets, fish offal, ramps, boathouses, piers or duck blinds placed in navigable waters. Any person, firm or corporation erecting such sign or other structure without a proper permit or not in accordance with the specification of such permit shall be guilty of a Class 2 misdemeanor. The State may immediately proceed to remove or cause to be removed such unlawful sign or structure after five days' notice to the owner or erector thereof and the cost of such removal by the State shall be payable by the person, firm or corporation who erected or owns the unlawful sign or other structure and the State may bring suit to recover the costs of the removal thereof.

(c) Whenever any structure lawfully erected upon the floor of, or in or upon, any body of navigable water in this State, is abandoned, such structure shall be removed by the owner thereof and the area cleaned up within 30 days of such abandonment; failure to comply with this section shall constitute a Class 2 misdemeanor. The State may, after 10 days' notice to the owner or erector thereof, remove the abandoned structure and have the area cleaned up and the cost of such removal and cleaning up by the State shall be payable by the owner or erector of the abandoned structure and the State may bring suit to recover the costs thereof.

(d) For purposes of this section, the term "navigable waters" shall not include any waters within the boundaries of any reservoir, pond or impoundment used in connection with the generation of electricity, or of any reservoir project owned or operated by the United States.

(e) The provisions of this section, in the coastal waters of this State, shall be enforced by the Department of Environmental Quality. In the inland waters of the State, the provisions of this section shall be enforced by the Wildlife Resources Commission. The Department of Environmental Quality and the Wildlife Resources Commission shall cooperate in the enforcement of this section. (1784, c. 206, s. 11; 1811, c. 839; 1833, c. 146; R.S., c. 88, ss. 23, 24, 45; 1842, c. 65, s. 4; 1846, c. 60, s. 3; R.C., c. 85, ss. 40, 41; Code, ss. 3537, 3538; Rev., s. 3560; C.S., s. 6891; 1969, c. 792; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, ss. 13, 218(18); c. 742, s. 3; 1993, c. 539, ss. 570, 1287; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 11A.119(a); 2015-241, s. 14.30(u).)

#### **G.S. 77-20. Seaward boundary of coastal lands.**

(a) The seaward boundary of all property within the State of North Carolina, not owned by the State, which adjoins the ocean, is the mean high water mark. Provided, that this section shall not apply where title below the mean high water mark is or has been specifically granted by the State.

- (b) Notwithstanding any other provision of law, no agency shall issue any rule or regulation which adopts as the seaward boundary of privately owned property any line other than the mean high water mark. The mean high water mark also shall be used as the seaward boundary for determining the area of any property when such determination is necessary to the application of any rule or regulation issued by any agency.
- (c) For purposes of this Article, "agency" means any part, branch, division, or instrumentality of the State; any county, municipality, or special district; or any commission, committee, council, or board established by the State, or by any county or municipality.
- (d) The public having made frequent, uninterrupted, and unobstructed use of the full width and breadth of the ocean beaches of this State from time immemorial, this section shall not be construed to impair the right of the people to the customary free use and enjoyment of the ocean beaches, which rights remain reserved to the people of this State under the common law and are a part of the common heritage of the State recognized by Article XIV, Section 5 of the Constitution of North Carolina. These public trust rights in the ocean beaches are established in the common law as interpreted and applied by the courts of this State.
- (e) As used in this section, "ocean beaches" means the area adjacent to the ocean and ocean inlets that is subject to public trust rights. This area is in constant flux due to the action of wind, waves, tides, and storms and includes the wet sand area of the beach that is subject to regular flooding by tides and the dry sand area of the beach that is subject to occasional flooding by tides, including wind tides other than those resulting from a hurricane or tropical storm. The landward extent of the ocean beaches is established by the common law as interpreted and applied by the courts of this State. Natural indicators of the landward extent of the ocean beaches include, but are not limited to, the first line of stable, natural vegetation; the toe of the frontal dune; and the storm trash line. (1979, c. 618, s. 2; 1998-225, s. 5.1.)

**G.S. 106-756. Legislative findings and purpose.**

The General Assembly finds and declares that it is in the best interest of the citizens of North Carolina to promote and encourage the development of the State's aquacultural resources in order to augment food supplies, expand employment, promote economic activity, increase stocks of native aquatic species, enhance commercial and recreational fishing and protect and better use the land and water resources of the State. (1989, c. 752, s. 147.)

**G.S. 106-758. Definitions.**

In addition to the definitions in G.S. 113-129, the following definitions shall apply as used in this Article,

- (1) "Aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching;
- (2) "Aquaculture facility" means any land, structure or other appurtenance that is used for aquaculture, including, but not limited to, any laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment used in aquaculture;
- (3) "Aquatic species" means any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant, and including, but not limited to, "fish" and "fishes" as defined in G.S. 113-129(7);
- (4) "Commissioner" means the Commissioner of Agriculture;
- (5) "Department" means the North Carolina Department of Agriculture and Consumer Services. (1989, c. 752, s. 147; 1993, c. 18, s. 1; 1997-261, s. 71.)

**G.S. 106-759. Lead agency; powers and duties.**

- (a) For the purposes of this Article, aquaculture is considered to be a form of agriculture and thus the Department of Agriculture and Consumer Services is designated as the lead State agency in matters pertaining to aquaculture.
- (b) The Department shall have the following powers and duties:
  - (1) To provide aquaculturalists with information and assistance in obtaining permits related to aquacultural activities;
  - (2) To promote investment in aquaculture facilities in order to expand production and processing capacity; and
  - (3) To work with appropriate State and federal agencies to review, develop and implement policies and procedures to facilitate aquacultural development. (1989, c. 752, s. 147; 1997-261, s. 109.)

**G.S. 106-762. Fish disease management.**

(a) The North Carolina Department of Agriculture and Consumer Services shall, with the assistance of the Wildlife Resources Commission, develop and implement a fish disease management plan to prevent the introduction of fish diseases through aquaculture facilities subject to the provisions and duly adopted rules of this section into the State.

(b) Release of fish. It shall be unlawful to willfully release domestically raised fish into the waters of the State, other than in private ponds as defined by G.S. 113-129, without written permission of the Wildlife Resources Commission,

or the Division of Marine Fisheries of the Department of Environmental Quality. (1993, c. 18, s. 2; 1997-261, s. 77; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(u).)

**G.S. 113-128. Definitions relating to agencies and their powers.**

The following definitions and their cognates apply to powers and administration of agencies charged with the conservation of marine and estuarine and wildlife resources:

- (1), (2) Repealed by Session Laws 1979, c. 830, s. 1.
- (3) Department. – The Department of Environmental Quality.
- (4) Executive Director. – Executive Director, North Carolina Wildlife Resources Commission.
- (4a) Fisheries Director. – Director, North Carolina Division of Marine Fisheries of the Department of Environmental Quality who shall be qualified for the office by education or experience.
- (5) Inspector. – Marine fisheries inspector.
- (5a) Marine Fisheries Commission. – The Marine Fisheries Commission of the Department as established by Part 5D of Article 7 of Chapter 143B of the General Statutes.
- (5b) Marine Fisheries Inspector. – An employee of the Department, other than a wildlife protector, sworn in as an officer and assigned duties which include exercise of law enforcement powers under this Subchapter. All references in statutes, regulations, contracts, and other legal and official documents to commercial fisheries inspectors and to commercial and sports fisheries inspectors apply to marine fisheries inspectors.
- (6) Notice; Notify. – Where it is required that notice be given an agency of a situation within a given number of days, this places the burden on the person giving notice to make sure that the information is received in writing by a responsible member of the agency within the time limit.
- (7) Protector. – Wildlife protector.
- (8) Secretary. – Secretary of Environmental Quality.
- (9) Wildlife Protector. – An employee of the North Carolina Wildlife Resources Commission sworn in as an officer and assigned to duties which include exercise of law-enforcement powers.
- (10) Wildlife Resources Commission. – The North Carolina Wildlife Resources Commission as established by Article 24 of Chapter 143 of the General Statutes and Part 3 of Article 7 of Chapter 143B of the General Statutes. (1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1977, c. 512, s. 5; c. 771, s. 4; 1979, c. 388, s. 1; c. 830, s. 1; 1987, c. 641, s. 4; 1989, c. 727, s. 218(57); 1997-443, s. 11A.119(a); 1998-225, s. 1.1; 2015-241, s. 14.30(u), (v).)

**G.S. 113-129. Definitions relating to resources.**

The following definitions and their cognates apply in the description of the various marine and estuarine and wildlife resources:

- (1) Repealed by Session Laws 1979, c. 830, s. 1.
- (1a) Animals. - Wild animals, except when the context clearly indicates a contrary interpretation.
- (1b) Big Game. - Bear, wild turkey, and white-tailed deer.
- (1c) Birds. - Wild birds, except when the context clearly indicates a contrary interpretation.
- (1d) Boating and Fishing Access Area. - An area providing access to public waters and which is owned, allocated to, leased, controlled, or managed by the Wildlife Resources Commission.
- (1e) Bushel. - A dry measure containing 2,150.42 cubic inches.
- (1f) Cervid or Cervidae. - All animals in the Family Cervidae (elk and deer).
- (2) Coastal Fisheries. - Any and every aspect of cultivating, taking, possessing, transporting, processing, selling, utilizing, and disposing of fish taken in coastal fishing waters, whatever the manner or purpose of taking, except for the regulation of inland game fish in coastal fishing waters which is vested in the Wildlife Resources Commission; and all such dealings with fish, wherever taken or found, by a person primarily concerned with fish taken in coastal fishing waters so as to be placed under the administrative supervision of the Department. Provided, that the Department is given no authority over the taking of fish in inland fishing waters. Except as provisions in this Subchapter or in regulations of the Marine Fisheries Commission authorized under this Subchapter may make such reference inapplicable, all references in statutes, regulations, contracts, and other legal or official documents to commercial fisheries apply to coastal fisheries.
- (3) Coastal Fishing. - All fishing in coastal fishing waters. Except as provisions in this Subchapter or in regulations of the Marine Fisheries Commission authorized under this Subchapter may make such references inapplicable, all references in statutes, regulations, contracts, and other legal or official documents to commercial fishing apply to coastal fishing.
- (4) Coastal Fishing Waters. - The Atlantic Ocean; the various coastal sounds; and estuarine waters up to the dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission. Except as provisions in this

Subchapter or changes in the agreement between the Marine Fisheries Commission and the Wildlife Resources Commission may make such reference inapplicable, all references in statutes, regulations, contracts, and other legal or official documents to commercial fishing waters apply to coastal fishing waters.

- (5) Crustaceans. - Crustacea, specifically including crabs, lobster, and shrimp.
- (5a) Deer. - White-tailed deer (*Odocoileus virginianus*), except when otherwise specified in this Chapter.
- (5b) Farmed Cervid. - Any member of the Cervidae family, other than white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold for commercial purposes.
- (5c) Feral Swine. - Free-ranging mammals of the species *Sus scrofa*.
- (6) Fisheries Resources. - Marine and estuarine resources and such wildlife resources as relate to fish.
- (7) Fish; Fishes. - All finfish; all shellfish; and all crustaceans.
- (7a) Fur-bearing Animals. - Beaver, mink, muskrat, nutria, otter, skunk, and weasel; bobcat, opossum, and raccoon when lawfully taken with traps.
- (7b) Game. - Game animals and game birds.
- (7c) Game Animals. - Bear, fox, rabbit, squirrel, white-tailed deer, and, except when trapped in accordance with provisions relating to fur-bearing animals, bobcat, opossum, and raccoon.
- (7d) Game Birds. - Migratory game birds and upland game birds.
- (8) Game Fish. - Inland game fish and such other game fish in coastal fishing waters as may be regulated by the Department.
- (8a) Game Lands. - Lands owned, allocated to, leased, controlled, or cooperatively managed by the Wildlife Resources Commission.
- (9) Inland Fishing Waters. - All inland waters except private ponds; and all waters connecting with or tributary to coastal sounds or the ocean extending inland or upstream from:
  - a. The dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission; or
  - b. North Carolina's boundary with another state.
- (10) Inland Game Fish. - Those species of freshwater fish, wherever found, and migratory saltwater fish, when found in inland fishing waters, as to which there is an important element of sport in taking and which are denominated as game fish in the regulations of the Wildlife Resources Commission. No species of fish of commercial importance not classified as a game fish in commercial fishing waters as of January 1, 1965, may be classified as an inland game fish in coastal fishing waters without the concurrence of the Marine Fisheries Commission.
- (10a) Joint Fishing Waters. - Those coastal fishing waters in which are found a significant number of freshwater fish, as agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission in accordance with G.S. 113-132(e).
- (11) Marine and Estuarine Resources. - All fish, except inland game fish, found in the Atlantic Ocean and in coastal fishing waters; all fisheries based upon such fish; all uncultivated or undomesticated plant and animal life, other than wildlife resources, inhabiting or dependent upon coastal fishing waters; and the entire ecology supporting such fish, fisheries, and plant and animal life.
- (11a) Migratory Birds. - All birds, whether or not raised in captivity, included in the terms of conventions between the United States and any foreign country for the protection of migratory birds and the Migratory Bird Treaty Act, as defined and listed in Part 10 of Title 50 of the Code of Federal Regulations.
- (11b) Migratory Game Birds. - Those migratory birds for which open seasons are prescribed by the United States Department of the Interior and belonging to the following families:
  - a. Anatidae (wild ducks, geese, brant, and swans);
  - b. Columbidae (wild doves and pigeons);
  - c. Gruidae (little brown cranes);
  - d. Rallidae (rails, coots, and gallinules); and
  - e. Scolopacidae (woodcock and snipe).

The Wildlife Resources Commission is authorized to modify this definition from time to time by regulations only as necessary to keep it in conformity with governing federal laws and regulations pertaining to migratory game birds.
- (11c) Migratory Waterfowl; Waterfowl. - Those migratory birds for which open seasons are prescribed by the United States Department of the Interior and belonging to the Family Anatidae (wild ducks, geese, brant, and swans).
- (11d) Mountain Heritage Trout Waters. - Those waters that run through or are adjacent to a city that has been designated by the Wildlife Resources Commission as a Mountain Heritage Trout City pursuant to G.S. 113-273(e).
- (11e) Nongame Animals. - All wild animals except game and fur-bearing animals.

- (11f) Nongame Birds. - All wild birds except game birds.
- (12) Nongame Fish. - All fish found in inland fishing waters other than inland game fish.
- (12a) Repealed by Session Laws 2004-160, s. 1, effective August 2, 2004.
- (12b) Repealed by Session Laws 2004-160, s. 1, effective August 2, 2004.
- (12c) Overfished. - The condition of a fishery that occurs when the spawning stock biomass of the fishery is below the level that is adequate for the recruitment class of a fishery to replace the spawning class of the fishery.
- (12d) Overfishing. - Fishing that causes a level of mortality that prevents a fishery from producing a sustainable harvest.
- (13) Private Pond. - A body of water arising within and lying wholly upon a single tract of privately owned land, from which fish cannot escape and into which fish cannot enter from public fishing waters at any time, except that all publicly owned ponds and lakes are classified as public fishing waters. In addition, the private owners of abutting tracts of land on which a pond not exceeding 10 acres is or has been established may by written agreement cooperate to maintain that pond as a private pond if it otherwise meets the requirements of this definition. If a copy of the agreement has been filed with the Wildlife Resources Commission and the pond in fact meets the requirements of this definition, it attains the status of private pond either 60 days after the agreement has been filed or upon the Commission's approving it as private, whichever occurs first.
- (13a) Public Fishing Waters; Public Waters. - Coastal fishing waters, inland fishing waters, or both.
- (13b) Public Hunting Grounds. - Privately owned lands open to the public for hunting under the terms of a cooperative agreement between the owner and the Wildlife Resources Commission.
- (13c) Public Mountain Trout Waters. - Those waters designated by the Wildlife Resources Commission that are managed and regulated to sustain a mountain trout fishery.
- (13d) Raptor. - A migratory bird of prey authorized under federal law and regulations for the taking of quarry by falconry.
- (14) Shellfish. - Mollusca, specifically including oysters, clams, mussels, and scallops.
- (14a) Sustainable harvest. - The amount of fish that can be taken from a fishery on a continuing basis without reducing the stock biomass of the fishery or causing the fishery to become overfished.
- (14b) Upland Game Birds. - Grouse, pheasant, quail, and wild turkey.
- (15) Wild Animals. - Game animals; fur-bearing animals; feral swine; and all other wild mammals except marine mammals found in coastal fishing waters. In addition, this definition includes members of the following groups which are on the federal list of endangered or threatened species: wild amphibians, wild reptiles except sea turtles inhabiting and depending upon coastal fishing waters, and wild invertebrates except invertebrates declared to be pests under the Structural Pest Control Act of North Carolina of 1955 or the North Carolina Pesticide Law of 1971. Nothing in this definition is intended to abrogate G.S. 113-132(c), confer jurisdiction upon the Wildlife Resources Commission as to any subject exclusively regulated by any other agency, or to authorize the Wildlife Resources Commission by its regulations to supersede valid provision of law or regulation administered by any other agency.
- (15a) Wild Birds. - Migratory game birds; upland game birds; and all undomesticated feathered vertebrates. The Wildlife Resources Commission may by regulation list specific birds or classes of birds excluded from the definition of wild birds based upon the need for protection or regulation in the interests of conservation of wildlife resources.
- (15b) Repealed by Session Laws 2011-369, s. 2, effective October 1, 2011.
- (16) Wildlife. - Wild animals; wild birds; all fish found in inland fishing waters; and inland game fish. Unless the context clearly requires otherwise, the definitions of wildlife, wildlife resources, wild animals, wild birds, fish, and the like are deemed to include species normally wild, or indistinguishable from wild species, which are raised or kept in captivity. Nothing in this definition is intended to abrogate the exclusive authority given the Department of Agriculture and Consumer Services to regulate the production and sale of pen-raised quail for food purposes.
- (16a) Wildlife Refuge. - An area of land or waters owned, leased, controlled, or cooperatively managed by the Wildlife Resources Commission which is closed to the taking of some or all species of wildlife.
- (17) Wildlife Resources. - All wild birds; all wild mammals other than marine mammals found in coastal fishing waters; all fish found in inland fishing waters, including migratory saltwater fish; all inland game fish; all uncultivated or undomesticated plant and animal life inhabiting or depending upon inland fishing waters; waterfowl food plants wherever found, except that to the extent such plants in coastal fishing waters affect the conservation of marine and estuarine resources the Department is given concurrent jurisdiction as to such plants; all undomesticated terrestrial creatures; and the entire ecology supporting such birds, mammals, fish, plant and animal life, and creatures.

- (18) Wildlife Resources Commission Property. - All lands, game lands, wildlife refuges, artificial constructions in boating and fishing access areas, and all other property owned, allocated to, leased, controlled, or cooperatively managed and designated for public use by the Wildlife Resources Commission. (1965, c. 957, s. 2; 1973, c. 1262, ss. 18, 28; 1977, c. 771, s. 4; 1979, c. 830, s. 1; 1979, 2nd Sess., c. 1285; 1987, c. 641, ss. 5, 6; 1991, c. 317, ss. 2, 3; c. 761, ss. 38, 39; 1993, c. 515, s. 6; 1997-142, ss. 2, 3; 1997-261, s. 80; 1997-400, s. 3.5; 1999-339, ss. 1-3; 2003-344, ss. 1-4; 2004-160, ss. 1, 2; 2009-89, s. 2; 2011-369, s. 2; 2013-413, s. 37(a); 2019-204, s. 2.)

**G.S. 113-130. Definitions relating to activities of public.**

The following definitions and their cognates apply to activities of the public in regard to marine and estuarine and wildlife resources:

- (1) Repealed by Session Laws 1979, c. 830, s. 1.
- (1a) Falconry. – The sport of taking quarry by means of a trained raptor.
- (1b) Individual. – A human being.
- (1c) Landholder. – Any individual, resident or nonresident, owning land in this State or, when he is the one principally engaged in cultivating the land, leasing land in this State for agricultural purposes.
- (2) Owner; Ownership. – As for personal property, refers to persons having beneficial ownership and not to those holding legal title for security; as for real property, refers to persons having the present right of control, possession, and enjoyment, whether as life tenant, fee holder, beneficiary of a trust, or otherwise. Provided, that this definition does not include lessees of property except where the lease arrangement is a security device to facilitate what is in substance a sale of the property to the lessee.
- (3) Person. – Any individual; or any partnership, firm, association, corporation, or other group of individuals capable of suing or being sued as an entity.
- (4) Resident. – In the case of:
  - a. Individuals. – One who at the time in question has resided in North Carolina for the preceding six months or has been domiciled in North Carolina for the preceding 60 days. When domicile in the State for a period of 60 days up to six months is the basis for establishing residence, the individual must sign a certificate on a form supplied by the Department or the Wildlife Resources Commission, as the case may be, stating the necessary facts and the intent to establish domicile here.
  - b. Corporations. – A corporation which is chartered under the laws of North Carolina and has its principal office within the State.
  - c. Partnerships. – A partnership in which all partners are residents of North Carolina and which has its principal office in the State.
  - d. Other Associations and Groups Fitting the Definition of Person. – An association or group principally composed of individual residents of North Carolina, with its principal office, if any, in the State, and organized for a purpose that contemplates more involvement or contact with this State than any other state.
  - e. Military Personnel and Their Dependents. – A member of the Armed Forces of the United States stationed at a military facility in North Carolina, the member's spouse, and any dependent under 18 years of age residing with the member are deemed residents of the State, of the county in which they live, and also, if different, of any county in which the military facility is located. A member of the Armed Forces of the United States on active duty outside the State of North Carolina shall be deemed an individual resident of the State for purposes of all the following licenses:
    1. Coastal Recreational Fishing Licenses issued pursuant to G.S. 113-174.2(c)(1) and (c)(4).
    2. Combination Hunting and Inland Fishing Licenses issued pursuant to G.S. 113-270.1C(b)(1).
    3. Sportsman Licenses issued pursuant to G.S. 113-270.1D(a).
    4. Hunting Licenses issued pursuant to G.S. 113-270.2(c)(1) and (c)(5).
    5. Special Activity Licenses issued pursuant to G.S. 113-270.3(b)(1).
    6. Trapping Licenses issued pursuant to G.S. 113-270.5(b)(1).
    7. Hook-and-Line Licenses issued pursuant to G.S. 113-271(d)(1), (d)(2), and (d)(6)a.
    8. Unified Hunting and Fishing Licenses issued pursuant to G.S. 113-351(c)(1) and (c)(2).
  - f. Students. – Nonresident students attending a university, college, or community college in the State.
- (4a) To Buy; Purchase. – Includes a purchase or exchange of property, or an offer or attempt to purchase or exchange, for money or any other valuable consideration.

- (5) To Fish. – To take fish.
- (5a) To Hunt. – To take wild animals or wild birds.
- (6) To Sell; Sale. – Includes a sale or exchange of property, or an offer or attempt to sell or exchange – for money or any other valuable consideration.
- (7) To Take. – All operations during, immediately preparatory, and immediately subsequent to an attempt, whether successful or not, to capture, kill, pursue, hunt, or otherwise harm or reduce to possession any fisheries resources or wildlife resources.
- (7a) To Trap. – To take wild animals or wild birds by trapping.
- (8) Vessel. – Every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water. (1965, c. 957, s. 2; 1971, c. 705, s. 3; 1973, c. 1262, s. 18; 1979, c. 830, s. 1; 2005-455, s. 1.21; 2011-183, s. 76; 2013-191, s. 1.)

**G.S. 113-131. Resources belong to public; stewardship of conservation agencies; grant and delegation of powers; injunctive relief.**

(a) The marine and estuarine and wildlife resources of the State belong to the people of the State as a whole. The Department and the Wildlife Resources Commission are charged with stewardship of these resources.

(b) The following powers are hereby granted to the Department and the Wildlife Resources Commission and may be delegated to the Fisheries Director and the Executive Director:

- (1) Comment on and object to permit applications submitted to State agencies which may affect the public trust resources in the land and water areas subject to their respective management duties so as to conserve and protect the public trust rights in such land and water areas;
- (2) Investigate alleged encroachments upon, usurpations of, or other actions in violation of the public trust rights of the people of the State; and
- (3) Initiate contested case proceedings under Chapter 150B for review of permit decisions by State agencies which will adversely affect the public trust rights of the people of the State or initiate civil actions to remove or restrain any unlawful or unauthorized encroachment upon, usurpation of, or any other violation of the public trust rights of the people of the State or legal rights of access to such public trust areas.

(c) Whenever there exists reasonable cause to believe that any person or other legal entity has unlawfully encroached upon, usurped, or otherwise violated the public trust rights of the people of the State or legal rights of access to such public trust areas, a civil action may be instituted by the responsible agency for injunctive relief to restrain the violation and for a mandatory preliminary injunction to restore the resources to an undisturbed condition. The action shall be brought in the superior court of the county in which the violation occurred. The institution of an action for injunctive relief under this section shall not relieve any party to such proceeding from any civil or criminal penalty otherwise prescribed for the violation.

(d) The Attorney General shall act as the attorney for the agencies and shall initiate actions in the name of and at the request of the Department or the Wildlife Resources Commission.

(e) In this section, the term "public trust resources" means land and water areas, both public and private, subject to public trust rights as that term is defined in G.S. 1-45.1.

(f) Notwithstanding the provisions of this section, a county or city may adopt and enforce ordinances as provided in G.S. 153A-145.3 or G.S. 160A-205, respectively. (1965, c. 957, s. 2; 1973, c. 1262, s. 18; 1987, c. 641, s. 14; 2013-384, s. 4(b); 2015-70, s. 2.)

**G.S. 113-132. Jurisdiction of fisheries agencies.**

(a) The Marine Fisheries Commission has jurisdiction over the conservation of marine and estuarine resources. Except as may be otherwise provided by law, it has jurisdiction over all activities connected with the conservation and regulation of marine and estuarine resources, including the regulation of aquaculture facilities as defined in G.S. 106-758 which cultivate or rear marine and estuarine resources.

(b) The Wildlife Resources Commission has jurisdiction over the conservation of wildlife resources. Except as may be otherwise provided by law, it has jurisdiction over all activities connected with the conservation and regulation of wildlife resources.

(c) Notwithstanding the provisions of this Article, this Subchapter does not give the Marine Fisheries Commission or the Wildlife Resources Commission jurisdiction over matters clearly within the jurisdiction vested in the Department of Agriculture and Consumer Services, the North Carolina Pesticide Board, the Commission for Public Health, the Environmental Management Commission, or other division of the Department regulating air or water pollution.

(d) To the extent that the grant of jurisdiction to the Marine Fisheries Commission and the Wildlife Resources Commission may overlap, the Marine Fisheries Commission and the Wildlife Resources Commission are granted concurrent jurisdiction. In cases of conflict between actions taken or regulations promulgated by either agency, as respects the activities of the other, pursuant to the dominant purpose of such jurisdiction, the Marine Fisheries

- Commission and the Wildlife Resources Commission are empowered to make agreements concerning the harmonious settlement of such conflict in the best interests of the conservation of the marine and estuarine and wildlife resources of the State. In the event the Marine Fisheries Commission and the Wildlife Resources Commission cannot agree, the Governor is empowered to resolve the differences.
- (e) Those coastal fishing waters in which are found a significant number of freshwater fish, as agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission, may be denominated joint fishing waters. These waters are deemed coastal fishing waters from the standpoint of laws and regulations administered by the Department and are deemed inland fishing waters from the standpoint of laws and regulations administered by the Wildlife Resources Commission. The Marine Fisheries Commission and the Wildlife Resources Commission may make joint regulations governing the responsibilities of each agency and modifying the applicability of licensing and other regulatory provisions as may be necessary for rational and compatible management of the marine and estuarine and wildlife resources in joint fishing waters.
  - (f) The granting of jurisdiction in this section pertains to the power of agencies to enact regulations and ordinances. Nothing in this section or in G.S. 113-138 is designed to prohibit law-enforcement officers who would otherwise have jurisdiction from making arrests or in any manner enforcing the provisions of this Subchapter. (1965, c. 957, s. 2; 1973, c. 476, s. 128; c. 1262, ss. 18, 28, 38; 1977, c. 771, s. 4; 1979, c. 830, s. 1; 1987, c. 641, s.5; 1989, c. 281, s. 3; 1997-261, s. 109; 2007-182, s. 2.)

**G.S. 113-133. Abolition of local coastal fishing laws.**

The enjoyment of the marine and estuarine resources of the State belongs to the people of the State as a whole and is not properly the subject of local regulation. As the Department is charged with administering the governing statutes and adopting rules in a manner to reconcile as equitably as may be the various competing interests of the people as regards these resources, considering the interests of those whose livelihood depends upon full and wise use of renewable and nonrenewable resources and also the interests of the many whose approach is recreational, all special, local, and private acts and ordinances regulating the conservation of marine and estuarine resources are repealed. Nothing in this section is intended to invalidate local legislation or local ordinances which exercise valid powers over subjects other than the conservation of marine and estuarine resources, even though an incidental effect may consist of an overlapping or conflict of jurisdiction as to some particular provision not essential to the conservation objectives set out in this Subchapter. (1965, c. 957, s. 2; 1987, c. 827, s. 96.)

**G.S. 113-134. Rules.**

The Marine Fisheries Commission and the Wildlife Resources Commission may, within their jurisdictional limitations imposed by this Article, adopt rules implementing this Subchapter. (1915, c. 84, s. 21; 1917, c. 290, s. 7; C.S., 1878; 1925, c. 168, s. 2; 1935, c. 35; 1945, c. 776; 1953, cc. 774, 1251; 1963, c. 1097, s. 1; 1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1987, c. 827, s. 97.)

**G.S. 113-134.1. Jurisdiction over marine fisheries resources in Atlantic Ocean.**

The Marine Fisheries Commission is directed to exercise all regulatory authority over the conservation of marine fisheries resources in the Atlantic Ocean to the seaward extent of the State jurisdiction over the resources as now or hereafter defined. Marine fisheries inspectors may enforce these regulations and all other provisions of law applicable under the authority granted in this section in the same manner and with the same powers elsewhere granted them as enforcement officers. (1973, c. 1315; 1977, c. 771, s. 4; 1979, c. 830, s. 1; 1987, c.641, ss. 5, 8.)

**G.S. 113-135. General penalties for violating Subchapter or rules; increased penalty for prior convictions; interpretive provisions.**

- (a) Any person who violates any provision of this Subchapter or any rule adopted by the Marine Fisheries Commission or the Wildlife Resources Commission, as appropriate, pursuant to the authority of this Subchapter, is guilty of a misdemeanor except that punishment for violation of the rules of the Wildlife Resources Commission is limited as set forth in G.S. 113-135.1. Fishing without a license in violation of G.S. 113-174.1(a) or G.S. 113-270.1B(a) is punishable as an infraction. Otherwise, unless a different level of punishment is elsewhere set out, anyone convicted of a misdemeanor under this section is punishable as follows:
  - (1) For a first conviction, as a Class 3 misdemeanor.
  - (2) For a second or subsequent conviction within three years, as a Class 2 misdemeanor.
- (b) In interpreting this section, provisions elsewhere in this Subchapter making an offense a misdemeanor "punishable in the discretion of the court" must be considered to set a different level of punishment, to be interpreted in the light of G.S. 14-3 or any equivalent or successor statute. Noncriminal sanctions, however, such as license revocation or suspension, and exercise of powers auxiliary to criminal prosecution, such as seizure of property involved in the commission of an offense, do not constitute different levels of punishment so as to oust criminal liability. Any previous conviction of an offense under this Subchapter, or under rules authorized by it, serves to

increase the punishment under subsection (a) even though for a different offense than the second or subsequent one.

- (c) For the purposes of this Subchapter, violations of laws or rules administered by the Wildlife Resources Commission under any former general or local law replaced by the present provisions of this Subchapter are deemed to be violations of laws or rules under this Subchapter. (1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1979, c. 830, s. 1; 1987, c. 827, s. 98; 1991, c. 176, s. 1; c. 761, s. 50.5; 1993, c. 539, s. 836; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 209, s. 3; 2013-360, s. 18B.14(m); 2013-385, s. 6.)

**G.S. 113-136. Enforcement authority of inspectors and protectors; refusal to obey or allow inspection by inspectors and protectors.**

(a) Inspectors and protectors are granted the powers of peace officers anywhere in this State, and beyond its boundaries to the extent provided by law, in enforcing all matters within their respective subject-matter jurisdiction as set out in this section.

(b) The jurisdiction of inspectors extends to all matters within the jurisdiction of the Department set out in this Subchapter, Part 5D of Article 7 of Chapter 143B of the General Statutes, Article 5 of Chapter 76 of the General Statutes, and Article 2 of Chapter 77 of the General Statutes, and to all other matters within the jurisdiction of the Department which it directs inspectors to enforce. In addition, inspectors have jurisdiction over all offenses involving property of or leased to or managed by the Department in connection with the conservation of marine and estuarine resources.

(c) The jurisdiction of protectors extends to all matters within the jurisdiction of the Wildlife Resources Commission, whether set out in this Chapter, Chapter 75A, Chapter 143, Chapter 143B, or elsewhere. The Wildlife Resources Commission is specifically granted jurisdiction over all aspects of:

- (1) Boating and water safety;
- (2) Hunting and trapping;
- (3) Fishing, exclusive of fishing under the jurisdiction of the Marine Fisheries Commission; and
- (4) Activities in woodlands and on inland waters governed by G.S. 106-908 to G.S. 106-910.

In addition, protectors have jurisdiction over all offenses involving property of or leased by the Wildlife Resources Commission or occurring on wildlife refuges, game lands, or boating and fishing access areas managed by the Wildlife Resources Commission. The authority of protectors over offenses on public hunting grounds is governed by the jurisdiction granted the Commission in G.S. 113-264(c).

(c1) Inspectors and protectors have jurisdiction to enforce the provisions of Article 19B of Chapter 106 of the General Statutes pursuant to and within the parameters of a formal agreement entered into under G.S. 106-202.15(10).

(d) Inspectors and protectors are additionally authorized to arrest without warrant under the terms of G.S. 15A-401(b) for felonies, for breaches of the peace, for assaults upon them or in their presence, and for other offenses evincing a flouting of their authority as enforcement officers or constituting a threat to public peace and order which would tend to subvert the authority of the State if ignored. In particular, they are authorized, subject to the direction of the administrative superiors, to arrest for violations of G.S. 14-223, 14-225, 14-269, and 14-277.

(d1) In addition to law enforcement authority granted elsewhere, a protector has the authority to enforce criminal laws under the following circumstances:

- (1) When the protector has probable cause to believe that a person committed a criminal offense in his presence and at the time of the violation the protector is engaged in the enforcement of laws otherwise within his jurisdiction; or
- (2) When the protector is asked to provide temporary assistance by the head of a State or local law enforcement agency or his designee and the request is within the scope of the agency's subject matter jurisdiction.

While acting pursuant to this subsection, a protector shall have the same powers invested in law enforcement officers by statute or common law. When acting pursuant to (2) of this subsection a protector shall not be considered an officer, employee, or agent for the state or local law enforcement agency or designee asking for temporary assistance. Nothing in this subsection shall be construed to expand the authority of protectors to initiate or conduct an independent investigation into violations of criminal laws outside the scope of their subject matter or territorial jurisdiction.

(e) Inspectors and protectors may serve arrest warrants, search warrants, orders for arrest, criminal summonses, subpoenas, and all other process connected with any cases within their subject-matter jurisdiction. In the exercise of their law enforcement powers, inspectors are subject to provisions relating to police officers in general set out in Chapter 15, Chapter 15A, and elsewhere.

(f) Inspectors and protectors are authorized to stop temporarily any persons they reasonably believe to be engaging in activity regulated by their respective agencies to determine whether such activity is being conducted within the requirements of the law, including license requirements. If the person stopped is in a motor vehicle being driven at the time and the inspector or protector in question is also in a motor vehicle, the inspector or protector is required to sound a siren or activate a special light, bell, horn, or exhaust whistle approved for law-enforcement vehicles under the provisions of G.S. 20-125(b) or 20-125(c).

(g) Protectors may not temporarily stop or inspect vehicles proceeding along primary highways of the State without clear evidence that someone within the vehicle is or has recently been engaged in an activity regulated by the Wildlife Resources Commission. Inspectors may temporarily stop vehicles, boats, airplanes, and other conveyances upon reasonable grounds to believe that they are transporting seafood products; they are authorized to inspect any seafood products being transported to determine whether they were taken in accordance with law and to require exhibition of any applicable license, receipts, permits, bills of lading, or other identification required to accompany such seafood products.

(h), (i) Repealed by Session Laws 1979, c. 830, s. 1.

(j) The refusal of any person to stop in obedience to the directions of an inspector or protector acting under the authority of this section is unlawful. A violation of this subsection is a Class 3 misdemeanor and may include a fine of not less than fifty dollars (\$50.00).

(k) It is unlawful to refuse to exhibit upon request by any inspector, protector, or other law enforcement officer any item required to be carried by any law or rule as to which inspectors or protectors have enforcement jurisdiction. The items that must be exhibited include boating safety or other equipment or any license, permit, tax receipt, certificate, or identification. It is unlawful to refuse to allow inspectors, protectors, or other law enforcement officers to inspect weapons or equipment if the officer reasonably believes them to be possessed incident to an activity regulated by any law or rule as to which inspectors and protectors have enforcement jurisdiction and the officer has a reasonable suspicion that a violation has been committed, except that an officer may inspect a shotgun to confirm whether it is plugged or unplugged without a reasonable suspicion that a violation has been committed. It is unlawful to refuse to allow inspectors, protectors, or other law enforcement officers to inspect fish or wildlife for the purpose of ensuring compliance with bag limits and size limits. Except as authorized by G.S. 113-137, nothing in this section gives an inspector, protector, or other law enforcement officer the authority to inspect, in the absence of a person in apparent control of the item to be inspected, any of the following:

- (1) Weapons.
- (2) Equipment, except for equipment left unattended in the normal operation of the equipment, including, but not limited to, traps, trot lines, crab pots, and fox pens.
- (3) Fish.
- (4) Wildlife.

(l) Nothing in this section authorizes searches within the curtilage of a dwelling or of the living quarters of a vessel in contravention of constitutional prohibitions against unreasonable searches and seizures. (1915, c. 84, s. 6; 1917, c. 290, s. 2; C.S., s. 1885; 1935, c. 118; 1957, c. 1423, s. 2; 1965, c. 957, s. 2; 1973, c. 1262, ss. 18, 28, 86; c. 1286, s. 17; c. 1297; 1977, c. 771, s. 4; 1979, c. 830, s. 1; 1987, c. 641, ss. 20, 22; c. 827, s. 98; 1991, c. 730, s. 1; 1997-80, s. 5; 1998-225, ss. 3.1, 3.2; 2011-145, s. 13.25(xx); 2015-263, s. 35(a); 2019-204, s. 8(b).)

**G.S. 113-137. Search on arrest; seizure and confiscation of property; disposition of confiscated property.**

- (a) Every inspector or protector who arrests a person for an offense as to which he has enforcement jurisdiction is authorized to search the person arrested and the surrounding area for weapons and for fruits, instrumentalities, and evidence of any crime for which the person arrested is or might have been arrested.
- (b) Every inspector or protector who issues a citation instead of arresting a person, in cases in which the inspector or protector is authorized to arrest, may seize all lawfully discovered evidence, fruits, and instrumentalities of any crime as to which he has arrest jurisdiction and probable cause. When live fish are returned to public fishing bottoms or public waters, the inspector or protector shall state on the citation the quantity returned.
- (c) Every inspector or protector who in the lawful pursuit of his duties has probable cause for believing he has discovered a violation of the law over which he has jurisdiction may seize in connection therewith any fish, wildlife, weapons, equipment, vessels, or other evidence, fruits, or instrumentalities of the crime, notwithstanding the absence of any person in the immediate area subject to arrest or the failure or inability of the inspector or protector to capture or otherwise take custody of the person guilty of the violation in question. Where the owner of such property satisfies the Secretary or the Executive Director, as the case may be, of his ownership and that he had no knowledge or culpability in regard to the offense involving the use of his property, such property must be returned to the owner. If after due diligence on the part of employees of the Department or the Wildlife Resources Commission, as the case may be, the identity or whereabouts of the violator or of the owner of the property seized cannot be determined, such property may be sold by the Department or the Wildlife Resources Commission in accordance with the provisions of this section.
- (d) The Marine Fisheries Commission and the Wildlife Resources Commission may provide by rule for summary disposition of live or perishable fish or wildlife seized by an inspector or protector. If the property seized consists of live fish which may again be placed to the benefit of the public on public fishing bottoms or in public waters, the inspector or protector may require the person in possession of the seized live fish to transport it the distance necessary to effect placement on appropriate bottoms or waters. In the event of refusal by the person in question to transport the fish, the inspector or protector must take appropriate steps to effect the transportation. The steps may include seizure of any conveyance or vessel of the person refusing to transport the fish if the conveyance or vessel was one on which the fish were located or was used to take or transport the fish. When a conveyance or

vessel is seized, it is to be safeguarded by the inspector or protector seizing it pending trial and it becomes subject to the orders of the court. Transportation costs borne by the Department or by the Wildlife Resources Commission, as the case may be, may be collected by the agency from the proceeds of the sale of any other property of the defendant seized and sold in accordance with the provisions of this section.

Except as provided in subsection (g), when the seizure consists of edible fish or wildlife which is not alive, may not live, or may not otherwise benefit conservation objectives if again placed on open lands, on public fishing bottoms, or in public fishing waters, the inspector or protector must dispose of the property in a charitable or noncommercial manner in accordance with the directions of his administrative superiors.

(e) Except as otherwise specifically provided in this section, all property seized must be safeguarded pending trial by the inspector or protector initiating the prosecution. Upon a conviction the property seized in connection with the offense in question is subject to the disposition ordered by the court. Upon an acquittal, property seized must be returned to the defendant or established owner, except:

- (1) Where the property was summarily disposed of in accordance with subsection (d);
- (2) Where possession of the property by the person to whom it otherwise would be returned would constitute a crime; and
- (3) Where the property seized has been sold in accordance with subsection (g). In this event the net proceeds of the sale must be returned to the defendant or established owner, as the case may be.

Where property seized summarily under subsection (d) is not available for return, an acquitted defendant or established owner is entitled to no compensation where there was probable cause for the action taken. Within 20 days of the final court adjudication of a citation, the Department or the Wildlife Resources Commission shall notify any acquitted defendant or established owner of its duly established procedures whereby reimbursement may be sought for live fish seized summarily under subsection (d) that is not available for return. Any action or proceeding to recover compensation must be begun within 30 days after receipt of the notice of applicable procedures. After the expiration of this period of limitation, no right or action or claim for compensation shall be asserted.

In safeguarding property seized pending trial, an inspector or protector is authorized in his discretion, subject to orders of his administrative superiors, to make his own provisions for storage or safekeeping or to deposit the property with the sheriff of the county in which the trial is to be held for custody pending trial. In the event the mode of safekeeping reasonably selected by the inspector or protector entails a storage or handling charge, such charge is to be paid as follows:

- (1) By the defendant if he is convicted but the court nevertheless orders the return of the property to the defendant;
- (2) From the proceeds of the sale of the property if the property is sold under court order or in accordance with the provisions of this section; or
- (3) By the Department or by the Wildlife Resources Commission, as the case may be, if no other provision for payment exists.

(f) Subject to orders of his administrative superiors, an inspector or protector in his discretion may leave property which he is authorized to seize in the possession of the defendant with the understanding that such property will be subject to the orders of the court upon disposition of the case. Willful failure or inexcusable neglect of the defendant to keep such property subject to the orders of the court is a Class 1 misdemeanor. In exercising his discretion, the inspector or protector should not permit property to be retained by the defendant if there is any substantial risk of its being used by the defendant in further unlawful activity.

(g) Where a prosecution involving seized saleable fish is pending and such fish are perishable or seasonal, the inspector or protector may apply to the court in which the trial is pending for an order permitting sale prior to trial. As used in this subsection, seasonal fish are those which command a higher price at one season than at another so that economic loss may occur if there is a delay in the time of sale. When ordered by the court, such sale prior to trial must be conducted in accordance with the order of the court or in accordance with the provisions of this section. The net proceeds of such sale are to be deposited with the court and are subject to the same disposition as would have been applicable to other types of property seized. Where sale is not lawful for public health reasons or otherwise not practicable or where prosecution is not pending, disposal of the fish is in accordance with subsection (d).

(h) Pending trial, the defendant or the established owner of any nonperishable and nonconsumable property seized may apply to the court designated to try the offense for return of the property. The property must be returned pending trial if:

- (1) The court is satisfied that return of the property will not facilitate further violations of the law; and
- (2) The claimant posts a bond for return of the property at trial in an amount double the value of the property as assessed by the court.

(i) Upon conviction of any defendant for a violation of the laws or rules administered by the Department or the Wildlife Resources Commission under the authority of this Subchapter, the court in its discretion may order the confiscation of all weapons, equipment, vessels, conveyances, fish, wildlife, and other evidence, fruits, and

instrumentalities of the offense in question, whether or not seized or made subject to the orders of the court pending trial. If the confiscated property is lawfully saleable, it must be sold; otherwise it must be disposed of in a manner authorized in this section. Unless otherwise specified in the order of the court, sales are to be held by the Department or the Wildlife Resources Commission, as the case may be.

The Department and the Wildlife Resources Commission may administratively provide for an orderly public sale procedure of property which it may sell under this section. The procedure may include turning the property to be sold over to some other agency for sale, provided that the provisions of subsection (j) are complied with and there is proper accounting for the net proceeds of the sale. In the case of property that cannot lawfully be sold or is unlikely to sell for a sufficient amount to offset the costs of sale, the Department and the Wildlife Resources Commission may provide either for destruction of the property or legitimate utilization of the property by some public agency.

- (j) Except as provided in subsection (d), if property is seized under subsection (c) or it appears that a person not a defendant has an interest in any property to be sold, destroyed, or otherwise disposed of, the Department and the Wildlife Resources Commission must provide for public notice of the description of the property and the circumstances of its seizure for a sufficient period prior to the time set for sale or other disposition to allow innocent owners or lienholders to assert their claims. The validity of claims are to be determined by the trial court in the event there is or has been a prosecution in connection with the seizure of the property. If there has been no prosecution and none is pending, the validity of claims must be determined by the Secretary or by the Executive Director, as the case may be. When there has been a sale under subsection (g), the provisions of this subsection apply to the net proceeds of the sale.
- (k) Except as provided in subsection (j) and in subdivision (3) of the first paragraph of subsection (e), the net proceeds of all sales made pursuant to this section must be deposited in the school fund of the county in which the property was seized. (1915, c. 84, s. 6; 1917, c. 290, s. 2; C.S., s. 1885; 1935, c. 118; 1953, c. 1134; 1957, c. 1423, s. 2; 1961, c. 1189, s. 4; 1965, c. 957, s. 2; 1973, c. 1262, ss. 18, 28; 1979, c. 830, s. 1; 1983 (Reg. Sess., 1984), c. 1083, ss. 1-3; 1987, c. 827, s. 98; 1993, c. 539, s. 837; 1994, Ex. Sess., c. 24, s. 14(c).)

**G.S. 113-138. Enforcement jurisdiction of special conservation officers.**

- (a) The Wildlife Resources Commission by rule may confer law-enforcement powers over matters within its jurisdiction with respect to wildlife resources conservation laws and rules within its jurisdiction upon the employees of the United States Fish and Wildlife Service, and the Marine Fisheries Commission may confer law-enforcement powers over matters within its jurisdiction with respect to marine and estuarine resources conservation laws and rules upon the employees of the National Marine Fisheries Service, who:
  - (1) Possess special law-enforcement jurisdiction that would not otherwise extend to the subject matter of this Subchapter;
  - (2) Are assigned during the duration of such appointment to duty stations within North Carolina; and
  - (3) Take the oath required of public officers before an officer authorized to administer oaths.
 These conferred powers do not constitute an appointment of any officer to an additional office.
- (b) The Marine Fisheries Commission and Wildlife Resources Commission shall limit the exercise of this authority to situations when:
  - (1) The best interests of the conservation of marine and estuarine and wildlife resources managed by the respective State and federal agencies are being adversely affected by restrictions upon jurisdictional subject matter that limit law-enforcement authority; and
  - (2) The best interests of the conservation of marine and estuarine and wildlife resources managed by the adopting Commission will benefit by conferring law-enforcement authority on the employees of the United States Fish and Wildlife Service or the National Marine Fisheries Service.
- (c) The enabling rule shall specify the particular officers or class of officers upon whom the law-enforcement powers are conferred and the geographic areas within which the special enforcement officers can exercise the law-enforcement powers over matters within the jurisdiction of the adopting Commission. The conferred powers may be used only during the scope of employment of the special conservation officers.
- (d) Unless otherwise provided by the enabling rule, such special enforcement officers shall have the same jurisdiction and powers with respect to resource conservation and the same rights, privileges and immunities (including those relating to the defense of civil actions and payment of judgments) as the State officers in addition to those the federal officer normally possesses. (1965, c. 957, s. 2; 1973, c. 1262, ss. 18, 28; 1977, c. 771, s. 4; 1983, c. 484; 1987, c. 827, s. 98; 1991 (Reg. Sess., 1992), c. 890, s. 5.)

**G.S. 113-140. Warning tickets.**

- (a) In enforcing the laws and rules within their subject matter jurisdiction, wildlife protectors and marine fisheries inspectors may, in accordance with the criteria of this section, issue warning tickets to offenders instead of initiating criminal prosecutions.

- (b) To secure uniformity of enforcement, the Executive Director and the Director of the Division of Marine Fisheries may administratively promulgate standards consistent with subsection (c) providing that warning tickets may or may not be issued with respect to particular offenses, classes of offenses, or ways of committing offenses.
- (c) A protector or inspector may issue a warning ticket only if all of the following conditions are met:
  - (1) The protector or inspector is convinced that the offense was not intentional.
  - (2) The offense is not of a kind or committed in a manner as to which warning tickets have been prohibited by the Executive Director or the Director of the Division of Marine Fisheries.
  - (3) The conduct of the offender was not calculated to result in any significant destruction of wildlife or fisheries resources.
  - (4) The conduct of the offender did not constitute a hazard to the public.A warning ticket may not be issued if the offender has previously been charged with or issued a warning ticket for a similar offense.
- (d) If any law-enforcement officer with jurisdiction over the offense or if any employee of the Wildlife Resources Commission or the Department learns that under the criteria of this section a warning ticket was inappropriately issued to an offender, he must take action to secure initiation of prosecution for the appropriate charge or charges unless barred by the statute of limitations or unless prosecution is not otherwise feasible because of unavailability of evidence or necessary witnesses.
- (e) Before any warning tickets are issued, the Executive Director or the Director of the Division of Marine Fisheries must institute a procedure to ensure an accurate accounting for and recording of all warning tickets issued. This procedure may include use of prenumbered tickets and immediate notation of issuance of the warning ticket on each appropriate license or permit issued by the Wildlife Resources Commission or Department held by the offender. The Executive Director or the Director of the Division of Marine Fisheries may also provide for issuance of new, replacement, or renewal licenses and permits bearing the notation. The licenses covered by this subsection include certificates of number for motorboats.
- (f) This section does not entitle any person who has committed an offense with the right to be issued a warning ticket. That issuance of a warning ticket may be appropriate under the criteria of this section does not restrict in any manner the powers of a wildlife protector or marine fisheries inspector or any other law-enforcement officer under G.S. 113-136, 113-137, and other provisions of law in dealing with hunters, fishermen, operators of vessels, and other offenders and suspected offenders.
- (g) Issuance of a warning ticket does not constitute evidence of the commission of an offense, but may be used to prevent issuance of a subsequent warning ticket to the same person for a similar offense. (1981, c. 252, s. 1; 1987, c. 827, s. 98; 1989, c. 308.)

**G.S. 113-168. Definitions.**

As used in this Article:

- (1) "Commercial fishing operation" means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, either with the use of commercial fishing equipment or gear, or by any means if the purpose of the taking is to obtain fish for sale. Commercial fishing operation does not include (i) the taking of fish as part of a recreational fishing tournament, unless commercial fishing equipment or gear is used, (ii) the taking of fish under a RCGL, or (iii) the taking of fish as provided in G.S. 113-261.
- (2) "Commission" means the Marine Fisheries Commission.
- (3) "Division" means the Division of Marine Fisheries in the Department of Environmental Quality.
- (3a) "Immediate family" means the mother, father, brothers, sisters, spouse, children, stepparents, stepbrothers, stepsisters, and stepchildren of a person.
- (4) "License year" means the period beginning 1 July of a year and ending on 30 June of the following year.
- (5) "North Carolina resident" means a person who is a resident within the meaning of G.S. 113-130(4).
- (6) "RCGL" means Recreational Commercial Gear License.
- (7) "RSCFL" means Retired Standard Commercial Fishing License.
- (8) "SCFL" means Standard Commercial Fishing License. (1997-400, s. 5.1; 1997-443, s. 11A.119(b); 1998-225, s. 4.9; 2001-213, s. 2; 2004-187, s. 6; 2015-241, s. 14.30(u).)

**G.S. 113-168.1. General provisions governing licenses and endorsements.**

- (a) Duration, Fees. - Except as provided in G.S. 113-173(f), all licenses and endorsements issued under this Article expire on the last day of the license year. An applicant for any license or endorsement shall pay the full annual fee at the time the applicant applies for the license or endorsement regardless of when application is made.
- (b) Licenses Required to Engage in Commercial Fishing. - It is unlawful for any person to engage in a commercial fishing operation without holding a license and any endorsements required by this Article. It is unlawful for

- anyone to command a vessel engaged in a commercial fishing operation without complying with the provisions of this Article and rules adopted by the Commission under this Article.
- (c) Licenses, Assignments, and Endorsements Available for Inspection. - It is unlawful for any person to engage in a commercial fishing operation in the State without having ready at hand for inspection all valid licenses, assignments, and endorsements required under this Article. To comply with this subsection, a person must have any required endorsements and either a currently valid (i) license issued in the person's true name and bearing the person's current address or (ii) SCFL and an assignment of the SCFL authorized under this Article. It is unlawful for a person to refuse to exhibit any license, assignment, or endorsement required by this Article upon the request of an inspector or other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.
  - (d) No Dual Residency. - It is unlawful for any person to hold any currently valid license issued under this Article to the person as a North Carolina resident if that person holds any currently valid commercial or recreational fishing license issued by another state to the person as a resident of that state.
  - (e) License Format. - Licenses issued under this Article shall be issued in the name of the applicant. Each license shall show the type of license and any endorsements; the name, mailing address, physical or residence address, and date of birth of the licensee; the date on which the license is issued; the date on which the license expires; and any other information that the Commission or the Division determines to be necessary to accomplish the purposes of this Subchapter.
  - (f) License Issuance and Renewal. - Except as provided in G.S. 113-173(d), the Division shall issue licenses and endorsements under this Article to eligible applicants at any office of the Division or by mail from the Morehead City office of the Division. A license or endorsement may be renewed in person at any office of the Division or by mail to the Morehead City office of the Division. Eligibility to renew an expired SCFL shall end one year after the date of expiration of the SCFL.
  - (g) Limitations on Eligibility. - A person is not eligible to obtain or renew a license or endorsement under this Article if, at the time the person applies for the license or endorsement, any other license or endorsement issued to the person under this Article is suspended or revoked. A person is not eligible to obtain a license or endorsement under this Article if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources. An applicant shall certify that the applicant has not been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license.
  - (h) Replacement Licenses and Endorsements. - The Division shall issue a replacement license, including any endorsements, to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed twelve dollars and fifty cents (\$12.50), that compensates the Division for the administrative costs associated with issuing the replacement license.
  - (i) Cancellation. - The Division may cancel a license or endorsement issued on the basis of an application that contains false information supplied by the applicant. A cancelled license or endorsement is void from the date of issuance. A person in possession of a cancelled license or endorsement shall surrender the cancelled license or endorsement to the Division. It is unlawful to refuse to surrender a cancelled license or endorsement upon demand of any authorized agent of the Division.
  - (j) Advance Sale of Licenses, License Revenue. - To ensure an orderly transition from one license year to the next, the Division may issue a license or endorsement prior to 1 July of the license year for which the license or endorsement is valid. Revenue that the Division receives for the issuance of a license or endorsement prior to the beginning of a license year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division only for the license year in which the license or endorsement is valid. Any license revenue carried forward from one fiscal year to the next under this subsection that remains unencumbered and unexpended at the end of the fiscal year in which the license or endorsement is valid shall revert to the General Fund. (1997-400, s. 5.1; 1998-225, s. 4.10; 1999-209, s. 6; 2001-213, s. 2; 2013-360, s. 14.8(a); 2014-100, s. 14.10.)

**G.S. 113-168.2. Standard Commercial Fishing License.**

- (a) Requirement. - Except as otherwise provided in this Article, it is unlawful for any person to engage in a commercial fishing operation in the coastal fishing waters without holding a SCFL issued by the Division. A

person who works as a member of the crew of a vessel engaged in a commercial fishing operation under the direction of a person who holds a valid SCFL is not required to hold a SCFL. A person who holds a SCFL is not authorized to take shellfish unless the SCFL is endorsed as provided in G.S. 113-168.5.

- (a1) Use of Vessels. - The holder of a SCFL is authorized to use only one vessel in a commercial fishing operation at any given time. The Commission may adopt a rule to exempt from this requirement a person in command of a vessel that is auxiliary to a vessel engaged in a pound net operation, long-haul operation, or beach seine operation. A person who works as a member of the crew of a vessel engaged in a mechanical shellfish operation under the direction of a person who holds a valid SCFL with a shellfish endorsement is not required to hold a shellfish license.
- (b) through (d) Repealed by Session Laws 1998-225, s. 4.11.
- (e) Fees. - The annual SCFL fee for a resident of this State shall be four hundred dollars (\$400.00). The annual SCFL fee for a person who is not a resident of this State shall be the amount charged to a resident of this State in the nonresident's state. In no event, however, may the fee be less than four hundred dollars (\$400.00). For purposes of this subsection, a "resident of this State" is a person who is a resident within the meaning of:
- (1) Sub-subdivisions a. through d. of G.S. 113-130(4) and who filed a State income tax return as a resident of North Carolina for the previous calendar or tax year, or
  - (2) G.S. 113-130(4)e.
- (f) Assignment. - The holder of a SCFL may assign the SCFL to any individual who is eligible to hold a SCFL under this Article. It is unlawful for the holder of an SCFL to assign a shellfish endorsement of an SCFL to any individual who is not a resident of this State. The assignment shall be in writing on a form provided by the Division and shall include the name of the licensee, the license number, any endorsements, the assignee's name, mailing address, physical or residence address, and the duration of the assignment. If a notarized copy of an assignment is not filed with the Morehead City office of the Division within five days of the date of the assignment, the assignment shall expire. It is unlawful for the assignee of a SCFL to assign the SCFL. The assignment shall terminate:
- (1) Upon written notification by the assignor to the assignee and the Division that the assignment has been terminated.
  - (2) Upon written notification by the estate of the assignor to the assignee and the Division that the assignment has been terminated.
  - (3) If the Division determines that the assignee is operating in violation of the terms and conditions applicable to the assignment.
  - (4) If the assignee becomes ineligible to hold a license under this Article.
  - (5) Upon the death of the assignee.
  - (6) If the Division suspends or revokes the assigned SCFL.
  - (7) At the end of the license year.
- (g) Transfer. - A SCFL may be transferred only by the Division. A SCFL may be transferred pursuant to rules adopted by the Commission or upon the request of:
- (1) A licensee, from the licensee to a member of the licensee's immediate family who is eligible to hold a SCFL under this Article.
  - (2) The administrator or executor of the estate of a deceased licensee, to the administrator or executor of the estate if a surviving member of the deceased licensee's immediate family is eligible to hold a SCFL under this Article. The administrator or executor must request a transfer under this subdivision within six months after the administrator or executor qualifies under Chapter 28A of the General Statutes. An administrator or executor who holds a SCFL under this subdivision may, for the benefit of the estate of the deceased licensee:
    - a. Engage in a commercial fishing operation under the SCFL if the administrator or executor is eligible to hold a SCFL under this Article.
    - b. Assign the SCFL as provided in subsection (f) of this section.
    - c. Renew the SCFL as provided in G.S. 113-168.1.
  - (3) An administrator or executor to whom a SCFL was transferred pursuant to subdivision (2) of this subsection, to a surviving member of the deceased licensee's immediate family who is eligible to hold a SCFL under this Article.
  - (4) The surviving member of the deceased licensee's immediate family to whom a SCFL was transferred pursuant to subdivision (3) of this subsection, to a third-party purchaser of the deceased licensee's fishing vessel.
  - (5) A licensee who is retiring from commercial fishing, to a third-party purchaser of the licensee's fishing vessel.
- (h) Identification as Commercial Fisherman. - The receipt of a current and valid SCFL or shellfish license issued by the Division shall serve as proper identification of the licensee as a commercial fisherman.

- (i) **Record-Keeping Requirements.** - The fish dealer shall record each transaction at the time and place of landing on a form provided by the Division. The transaction form shall include the information on the SCFL or shellfish license, the quantity of the fish, the identity of the fish dealer, and other information as the Division deems necessary to accomplish the purposes of this Subchapter. The person who records the transaction shall provide a completed copy of the transaction form to the Division and to the other party of the transaction. The Division's copy of each transaction form shall be transmitted to the Division by the fish dealer on or before the tenth day of the month following the transaction. (1997-400, s. 5.1; 1998-225, s. 4.11; 2001-213, s. 2; 2013-360, s. 14.8(b); 2013-384, s. 2(c); 2014-100, s. 14.9(b).)

**G.S. 113-168.3. Retired Standard Commercial Fishing License.**

- (a) **SCFL Provisions Applicable.** - Except as provided in this section, the provisions set forth in this Article concerning the SCFL shall apply to the RSCFL.
- (b) **Eligibility; Fees.** - Any individual who is 65 years of age or older and who is eligible for a SCFL under G.S. 113-168.2 may apply for either a SCFL or RSCFL. An applicant for a RSCFL shall provide proof of age at the time the application is made. The annual fee for a RSCFL for a resident of this State shall be two hundred dollars (\$200.00). The annual fee for a RSCFL for a person who is not a resident of this State shall be two hundred sixty dollars (\$260.00). For purposes of this subsection, a "resident of this State" is a person who is a resident within the meaning of:
  - (1) Sub-subdivisions a. through d. of G.S. 113-130(4) and who filed a State income tax return as a resident of North Carolina for the previous calendar or tax year, or
  - (2) G.S. 113-130(4)e.
- (c) **Transfer.** - The holder of a RSCFL may transfer the RSCFL as provided in G.S. 113-168.2.
  - (1) If the transferee is less than 65 years of age, the transferee holds a SCFL. When the transferee renews the SCFL, the transferee shall pay the fee set out in G.S. 113-168.2.
  - (2) If the transferee is 65 years of age or older, the transferee may elect to hold either a SCFL or RSCFL. If the transferee elects to hold a SCFL, the transferee shall pay the fee set out in G.S. 113-168.2. If the transferee elects to hold a RSCFL, the transferee shall pay the fee set out in this section.
- (d) **Assignment.** - The RSCFL shall not be assignable. (1997-400, s. 5.1; 1998-225, s. 4.12; 2001-213, s. 2; 2013-360, s. 14.8(c); 2014-100, s. 14.9(c).)

**G.S. 113-168.4. Sale of fish.**

- (a) Except as otherwise provided in this section, it is unlawful for any person who takes or lands any species of fish under the authority of the Commission from coastal fishing waters by any means whatever, including mariculture operations, to sell, offer for sale, barter or exchange these fish for anything of value without holding a license required to sell the type of fish being offered.
- (b) Except as otherwise provided in this section, it is unlawful for any person licensed under this Article to sell fish taken outside the territorial waters of the State or to sell fish taken from coastal fishing waters. A person licensed under this Article may sell fish taken outside the territorial waters of the State or sell fish taken from coastal fishing waters under any of the following circumstances:
  - (1) The sale is to a fish dealer licensed under G.S. 113-169.3.
  - (2) The sale is to the public and the seller is a licensed fish dealer under G.S. 113-169.3.
  - (3) The sale is of oysters or clams from a hatchery or aquaculture operation to the holder of an Aquaculture Operation Permit, an Under Dock Culture Permit, or a shellfish cultivation lease for further grow out.
- (c) A person who organizes a recreational fishing tournament may sell fish taken in connection with the tournament pursuant to a recreational fishing tournament license to sell fish. A person who organizes a recreational fishing tournament may obtain a recreational fishing tournament license to sell fish upon application to the Division and payment of a fee of one hundred twenty-five dollars (\$125.00). It is unlawful for any person licensed under this subsection to sell fish to any person other than a fish dealer licensed under G.S. 113-169.3 unless the seller is also a licensed fish dealer. A recreational fishing tournament is an organized fishing competition occurring within a specified time period not to exceed one week and that is not a commercial fishing operation. Gross proceeds from the sale of fish may be used only for charitable, religious, educational, civic, or conservation purposes and shall not be used to pay tournament expenses. (1997-400, s. 5.1; 1998-225, s. 4.13; 2001-213, s. 2; 2009-433, s. 1; 2013-360, s. 14.8(d).)

**G.S. 113-168.5. License endorsements for Standard Commercial Fishing License.**

- (a),(b) Repealed by Session Laws 1998-225, s. 4.14, effective July 1, 1999.
- (c) Repealed by Session Laws 2013-384, s. 2(a), effective August 23, 2013.

- (d) Shellfish Endorsement for North Carolina Residents. -The Division shall issue a shellfish endorsement of a SCFL to a North Carolina resident at no charge. The holder of a SCFL with a shellfish endorsement is authorized to take and sell shellfish. (1997-400, s. 5.1; 1998-225, s. 4.14; 2001-213, s. 2; 2013-384, s. 2(a).)

**G.S. 113-168.6. Commercial fishing vessel registration.**

- (a) As used in this subsection, a North Carolina vessel is a vessel that has its primary situs in the State. A vessel has its primary situs in the State if:
  - (1) A certificate of number has been issued for the vessel under Article 1 of Chapter 75A of the General Statutes;
  - (2) A certificate of title has been issued for the vessel under Article 4 of Chapter 75A of the General Statutes; or
  - (3) A certification of documentation has been issued for the vessel that lists a home port in the State under 46 U.S.C. § 12101, et seq., as amended.
- (b) The owner of a vessel used in a commercial fishing operation in the coastal fishing waters of the State or a North Carolina vessel used to land or sell fish in the State shall register the vessel with the Division. It is unlawful to use a vessel that is not registered with the Division in a commercial fishing operation or a for-hire operation in the coastal fishing waters of the State. It is unlawful to use a North Carolina vessel that is not registered with the Division to land or sell fish in the State. No registration is required for a vessel of any length that does not have a motor if the vessel is used only in connection with another vessel that is properly registered.
- (b1) The vessel owner at the time of application for registration under subsection (b) of this section shall obtain either a commercial vessel endorsement if the vessel is intended to be used primarily for the harvest of fish for sale, a for-hire endorsement if the vessel is intended to be used primarily for for-hire activities, or both endorsements if the vessel is intended to be engaged in both activities. The owner of a vessel applying for a commercial fishing vessel registration with a for-hire endorsement must affirm liability coverage and knowledge of applicable United States Coast Guard safety requirements.
- (c) The annual fee for a commercial fishing vessel registration shall be determined by the length of the vessel and shall be in addition to the fee for other licenses issued under this Article. The length of a vessel shall be determined by measuring the distance between the ends of the vessel along the deck and through the cabin, excluding the sheer. The annual fee for a commercial fishing vessel registration is:
  - (1) One dollar and twenty-five cents (\$1.25) per foot for a vessel not over 18 feet in length.
  - (2) One dollar and ninety cents (\$1.90) per foot for a vessel over 18 feet but not over 38 feet in length.
  - (3) Three dollars and seventy-five cents (\$3.75) per foot for a vessel over 38 feet but not over 50 feet in length.
  - (4) Seven dollars and fifty cents (\$7.50) per foot for a vessel over 50 feet in length.
- (d) A vessel may be registered at any office of the Division. A commercial fishing vessel registration expires on the last day of the license year.
- (e) Within 30 days of the date on which the owner of a registered vessel transfers ownership of the vessel, the new owner of the vessel shall notify the Division of the change in ownership and apply for a replacement commercial fishing vessel registration. An application for a replacement commercial fishing vessel registration shall be accompanied by proof of the transfer of the vessel. The provisions of G.S. 113-168.1(h) apply to a replacement commercial fishing vessel registration. (1998-225, s. 4.15; 2001-213, s. 3; 2013-360, s. 14.8(e).)

**G.S. 113-169.1. Permits for gear, equipment, and other specialized activities authorized.**

- (a) The Commission may adopt rules to establish permits for gear, equipment, and specialized activities, including commercial fishing operations that do not involve the use of a vessel and transplanting oysters or clams. The Commission may establish a fee for each permit established pursuant to this subsection in an amount that compensates the Division for the administrative costs associated with the permit but that does not exceed one hundred dollars (\$100.00) per permit.
- (b) The Commission may adopt rules to establish gear specific permits to take striped bass from the Atlantic Ocean and to limit the number and type of these permits that may be issued to a person. The Commission may establish a fee for each permit established pursuant to this subsection in an amount that compensates the Division for the administrative costs associated with the permit but that does not exceed thirty dollars (\$30.00) per permit.
- (d) To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid. (1997-400, s. 5.1; 2000-172, s. 6.1; 2001-213, s. 2; 2006-254, s. 1; 2013-360, s. 14.8(f).)

**G.S. 113-169.2. Shellfish license for North Carolina residents without a SCFL.**

(a) License or Endorsement Necessary to Take or Sell Shellfish Taken by Hand Methods. - It is unlawful for an individual to take shellfish from the public or private grounds of the State as part of a commercial fishing operation by hand methods without holding either a shellfish license or a shellfish endorsement of a SCFL. A North Carolina resident who seeks only to take shellfish by hand methods and sell such shellfish shall be eligible to obtain a shellfish license without holding a SCFL. The shellfish license authorizes the licensee to sell shellfish.

(a1) License Necessary to Take or Sell Shellfish Taken by Mechanical Means. - Except as provided in subsection (i) of this section, an individual who takes shellfish from the public or private grounds of the State by mechanical means must obtain an SCFL under the provisions of G.S. 113-168.2.

(b) Repealed by Session Laws 1998-225, s. 4.17, effective July 1, 1999.

(c) Fees. - Shellfish licenses issued under this section shall be issued annually upon payment of a fee of fifty dollars (\$50.00) upon proof that the license applicant is a North Carolina resident.

(d) License Available for Inspection. - It is unlawful for any individual to take shellfish as part of a commercial fishing operation from the public or private grounds of the State without having ready at hand for inspection a current and valid shellfish license issued to the licensee personally and bearing the licensee's correct name and address. It is unlawful for any individual taking or possessing freshly taken shellfish to refuse to exhibit the individual's license upon the request of an officer authorized to enforce the fishing laws.

(e) Repealed by Session Laws 1998-225, s. 4.17, effective July 1, 1999.

(f) Name or Address Change. - In the event of a change in name or address or upon receipt of an erroneous shellfish license, the licensee shall, within 30 days, apply for a replacement shellfish license bearing the correct name and address. Upon a showing by the individual that the name or address change occurred within the past 30 days, the trial court or prosecutor shall dismiss any charges brought pursuant to this subsection.

(g) Transfer Prohibited. - It is unlawful for an individual issued a shellfish license to transfer or offer to transfer the license, either temporarily or permanently, to another. It is unlawful for an individual to secure or attempt to secure a shellfish license from a source not authorized by the Commission.

(h) Exemption. - Persons under 16 years of age are exempt from the license requirements of this section if accompanied by a parent, grandparent, or guardian who is in compliance with the requirements of this section or if in possession of a parent's, grandparent's or guardian's shellfish license.

(i) Taking Shellfish Without a License for Personal Use or as Employee of Certain License Holders. - Shellfish may be taken without a license under the following circumstances:

(1) For personal use in quantities established by rules of the Marine Fisheries Commission.

(2) When the taking is from an area leased for the cultivation of shellfish under Article 16 of this Chapter by a person who is an employee of a leaseholder holding a valid SCFL issued under the provisions of G.S. 113-168.2, and the person provides an authorization letter with the leaseholder's SCFL number and signature. (1997-400, s. 5.1; 1998-225, s. 4.17; 2001-213, s. 2; 2004-187, s. 3; 2005-455, s. 1.18; 2009-433, s. 2; 2013-360, s. 14.8(g); 2014-100, s. 14.9(d); 2015-241, s. 14.10B.)

**G.S. 113-169.3. Licenses for fish dealers.**

(a) Eligibility. - A fish dealer license shall be issued to a North Carolina resident upon receipt of a proper application at any office of the Division together with all license fees including the total number of dealer categories set forth in this section. The license shall be issued in the name of the applicant and shall include all dealer categories on the license.

(b) Application for License. - Applications shall not be accepted from persons ineligible to hold a license issued by the Division, including any applicant whose license is suspended or revoked on the date of the application. The applicant shall be provided with a copy of the application marked received. The copy shall serve as the fish dealer's license until the license issued by the Division is received, or the Division determines that the applicant is ineligible to hold a license. Where an applicant does not have an established location for transacting the fisheries business within the State, the license application shall be denied unless the applicant satisfies the Secretary that his residence, or some other office or address within the State, is a suitable substitute for an established location and that records kept in connection with licensing, sale, and purchase requirements will be available for inspection when necessary.

Fish dealers' licenses are issued on a fiscal year basis upon payment of a fee as set forth herein upon proof, satisfactory to the Secretary, that the license applicant is a North Carolina resident.

(c) License Requirement. - Any person subject to the licensing requirements of this section is a fish dealer. Any person subject to the licensing requirements of this section shall obtain a separate license for each physical location conducting activities required to be licensed under this section.

Except as otherwise provided in this section, it is unlawful for any person not licensed pursuant to this Article:

(1) To buy fish for resale from any person involved in a commercial fishing operation that takes any species of fish from coastal fishing waters. For purposes of this subdivision, a retailer who purchases fish from

- a fish dealer shall not be liable if the fish dealer has not complied with the licensing requirements of this section;
- (2) To sell fish to the public; or
  - (3) To sell to the public any species of fish under the authority of the Commission taken from coastal fishing waters.
- (d) **Exceptions to License Requirements.** - The Commission may adopt rules to implement this subsection including rules to clarify the status of the listed classes of exempted persons, require submission of statistical data, and require that records be kept in order to establish compliance with this section. Any person not licensed pursuant to this section is exempt from the licensing requirements of this section if all fish handled within any particular licensing category meet one or more of the following requirements:
- (1) The fish are sold by persons whose dealings in fish are primarily educational, scientific, or official, and who have been issued a permit by the Division that authorizes the educational, scientific, or official agency to sell fish taken or processed in connection with research or demonstration projects;
  - (2) The fish are sold by individual employees of fish dealers when transacting the business of their duly licensed employer;
  - (3) The fish are shipped to a person by a dealer from without the State;
  - (4) The fish are of a kind the sale of which is regulated exclusively by the Wildlife Resources Commission; or
  - (5) The fish are purchased from a licensed dealer.
- (e) **Application Fee for New Fish Dealers.** - An applicant for a new fish dealer license shall pay a nonrefundable application fee of one hundred dollars (\$100.00) in addition to the license category fees set forth in this section.
- (f) **License Category Fees.** - Every fish dealer subject to licensing requirements shall secure an annual license at each established location for each of the following activities transacted there, upon payment of the fee set out:
- (1) Dealing in oysters: \$100.00;
  - (2) Dealing in scallops: \$100.00;
  - (3) Dealing in clams: \$100.00;
  - (4) Dealing in hard or soft crabs: \$100.00;
  - (5) Dealing in shrimp, including bait: \$100.00;
  - (6) Dealing in finfish, including bait: \$100.00;
  - (7) Operating menhaden or other fish-dehydrating or oil-extracting processing plants: \$100.00; or
  - (8) Consolidated license (all categories): \$600.00.
- (f1) **Other License Categories.** - Any person subject to fish dealer licensing requirements who deals in fish not included in the categories listed in subsection (f) of this section shall secure a finfish dealer license. The Commission may adopt rules implementing and clarifying the dealer categories of this section. Bait operations shall be licensed under either the finfish or shrimp dealer license categories.
- (g) Repealed by Session Laws 1998-225, s. 4.18.
- (h) **Replacement License.** - If the licensee fails to comply with the requirements of G.S. 113-168.1(h), the license is revoked.
- (i) **Unlawful Purchase and Sale of Fish.** - It is unlawful for a fish dealer to purchase, possess, or sell fish taken from coastal fishing waters in violation of this Subchapter or the rules adopted by the Commission implementing this Subchapter. It is unlawful for a fish dealer to buy or accept fish unless, at the time of the transaction:
- (1) The seller or donor presents a current and valid license to sell the type of fish being offered;
  - (2) The seller or donor presents the commercial fishing vessel registration of the vessel that was used to take the fish being offered; and
  - (3) The dealer records the transaction consistent with the record-keeping requirements of G.S. 113-168.2(i).
- (j) **Transfer Prohibited.** - Any fish dealer license issued under this section is nontransferable. It is unlawful to use a fish dealer license issued to another person in the sale or attempted sale of fish or for a licensee to lend or transfer a fish dealer license for the purpose of circumventing the requirements of this section. (1997-400, s. 5.1; 1998-225, s.4.18; 2001-213, s. 2; 2013-360, ss. 14.8(h), (i); 2014-100, s. 14.9(e).)

**G.S. 113-169.4. Licensing of ocean fishing piers; fees.**

- (a) The owner or operator of an ocean fishing pier within the coastal fishing waters who charges the public a fee to fish in any manner from the pier shall secure a current and valid pier license from the Division. An application for a pier license shall disclose the names of all parties involved in the pier operations, including the owner of the property, owner of the pier if different, and all leasehold or other corporate arrangements, and all persons with a substantial financial interest in the pier.
- (b) Within 30 days following a change of ownership of a pier, or a change as to the manager, the manager or new manager shall secure a replacement pier license as provided in G.S. 113-168.1(h).

- (c) Pier licenses are issued upon payment of four dollars and fifty cents (\$4.50) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters beyond the mean high waterline. The length of the pier shall be measured to include all extensions of the pier.
- (d) The manager who secures the pier license shall be the individual with the duty of executive-level supervision of pier operations.
- (e) The pier license issued under this section authorizes any individual who does not hold a Coastal Recreational Fishing License under Article 14B or Article 25A of this Chapter to engage in recreational fishing while on the pier. (1997-400, s. 5.1; 1998-225, s. 4.19; 2001-213, s. 2; 2013-360, s. 14.8(j).)

**G.S. 113-169.5. Land or sell license; vessels fishing beyond territorial waters.**

- (a) Persons aboard vessels not having their primary situs in the State that are carrying a cargo of fish taken outside the waters of the State may land or sell their catch in the State by purchasing a land or sell license as set forth in this section with respect to the vessel in question. The Commission may by rule modify the land or sell licensing procedure in order to devise an efficient and convenient procedure for licensing out-of-state vessels to only land, or after landing to permit sale of cargo.
- (b) The fee for a land or sell license for a vessel not having its primary situs in North Carolina is four hundred dollars (\$400.00), or an amount equal to the nonresident fee charged by the nonresident's state, whichever is greater. Persons aboard vessels having a primary situs in a jurisdiction that would allow North Carolina vessels without restriction to land or sell their catch, taken outside the jurisdiction, may land or sell their catch in the State without complying with this section if the persons are in possession of a valid license from their state of residence. (1997-400, s. 5.1; 2001-213, s. 2; 2013-360, s. 14.8(k); 2014-100, s. 14.9(f).)

**G.S. 113-170. Exportation and importation of fish and equipment.**

The Commission may adopt rules governing the importation and exportation of fish, and equipment that may be used in taking or processing fish, as necessary to enhance the conservation of marine and estuarine resources of the State. These rules may regulate, license, prohibit, or restrict importation into the State and exportation from the State of any and all species of fish that are native to coastal fishing waters or may thrive if introduced into these waters. (1997-400, s. 5.1; 2001-213, s. 2.)

**G.S. 113-170.1. Nonresidents reciprocal agreements.**

Persons who are not North Carolina residents are not eligible to obtain licenses under the provisions of this Article except as provided in this section. Residents of jurisdictions that sell commercial fishing licenses to North Carolina residents are eligible to hold North Carolina commercial fishing licenses under the provisions of G.S. 113-168.2. Licenses may be restricted in terms of area, gear, and fishery by the Commission so that the nonresidents are licensed to engage in North Carolina fisheries on the same or similar terms that North Carolina residents can be licensed to engage in the fisheries of other jurisdictions. The Secretary may enter into reciprocal agreements with other jurisdictions as necessary to allow nonresidents to obtain commercial fishing licenses in the State subject to the foregoing provisions. (1997-400, s. 5.1; 1998-225, s. 4.20; 2001-213, s. 2.)

**G.S. 113-170.2. Fraud or deception as to licenses, permits, or records.**

- (a) It is unlawful for any person to give any false information or willfully to omit giving required information to the Division or any license agent when the information is material to the securing of any license or permit under this Article. It is unlawful to falsify, fraudulently alter, or counterfeit any license, permit, identification, or record to which this Article applies or otherwise practice any fraud or deception designed to evade the provisions of this Article or reasonable administrative directives made under the authority of this Article.
- (b) A violation of this section is punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). (1997-400, s. 5.1; 2001-213, s. 2.)

**G.S. 113-170.3. Record-keeping requirements.**

- (a) The Commission may require all licensees under this Article to keep and to exhibit upon the request of an authorized agent of the Department records and accounts as may be necessary to the equitable and efficient administration and enforcement of this Article. In addition, licensees may be required to keep additional information of a statistical nature or relating to location of catch as may be needed to determine conservation policy. Records and accounts required to be kept must be preserved for inspection for not less than three years.
- (b) It is unlawful for any licensee to refuse or to neglect without justifiable excuse to keep records and accounts as may be reasonably required. The Department may distribute forms to licensees to aid in securing compliance with its requirements, or it may inform licensees of requirements in other effective ways such as distributing memoranda and sending agents of the Department to consult with licensees who have been remiss. Detailed forms or descriptions of records, accounts, collection and inspection procedures, and the like that reasonably

implement the objectives of this Article need not be embodied in rules of the Commission in order to be validly required.

- (c) The following records collected and compiled by the Department shall not be considered public records within the meaning of Chapter 132 of the General Statutes, but shall be confidential and shall be used only for the equitable and efficient administration and enforcement of this Article or for determining conservation policy, and shall not be disclosed except when required by the order of a court of competent jurisdiction: all records, accounts, and reports that licensees are required by the Commission to make, keep, and exhibit pursuant to the provisions of this section, and all records, accounts, and memoranda compiled by the Department from records, accounts, and reports of licensees and from investigations and inspections, containing data and information concerning the business and operations of licensees reflecting their assets, liabilities, inventories, revenues, and profits; the number, capacity, capability, and type of fishing vessels owned and operated; the type and quantity of fishing gear used; the catch of fish or other seafood by species in numbers, size, weight, quality, and value; the areas in which fishing was engaged in; the location of catch; the time of fishing, number of hauls, and the disposition of the fish and other seafood. The Department may compile statistical information in any aggregate or summary form that does not directly or indirectly disclose the identity of any licensee who is a source of the information, and any compilation of statistical information by the Department shall be a public record open to inspection and examination by any person, and may be disseminated to the public by the Department. (1997-400, s.5.1; 2001-213, s. 2.)

**G.S. 113-170.4. Rules as to possession, transportation, and disposition of fisheries resources.**

The Commission may adopt rules governing possession, transportation, and disposition of fisheries resources by all persons, including those not subject to fish dealer licensing requirements, in order that inspectors may adequately distinguish regulated coastal fisheries resources from those not so regulated and enforce the provisions of this Article equitably and efficiently. These rules may include requirements as to giving notice, filing declarations, securing permits, marking packages, and the like. (1997-400, s. 5.1; 2001-213, s. 2.)

**G.S. 113-170.5. Violations with respect to coastal fisheries resources.**

It is unlawful to take, possess, transport, process, sell, buy, or in any way deal in coastal fisheries resources without conforming with the provisions of this Article or of rules adopted under the authority of this Article. (1997-400, s. 5.1; 2001-213, s. 2.)

**G.S. 113-171. Suspension, revocation, and reissuance of licenses.**

- (a) Upon receipt of reliable notice that a person licensed under this Article, Article 14B, or Article 25A of Chapter 113 of the General Statutes to take resources under the jurisdiction of the Marine Fisheries Commission has had imposed against the person a conviction of a criminal offense within the jurisdiction of the Department under the provisions of this Subchapter or of rules of the Commission adopted under the authority of this Subchapter, the Secretary must suspend, revoke, and reissue all licenses held by the person in accordance with the terms of this section and rules adopted by the Commission. Reliable notice includes information furnished the Secretary in prosecution or other reports from inspectors. As used in this section, a conviction includes a plea of guilty or nolo contendere, any other termination of a criminal prosecution unfavorably to the defendant after jeopardy has attached, or any substitute for criminal prosecution whereby the defendant expressly or impliedly confesses the defendant's guilt. In particular, procedures whereby bond forfeitures are accepted in lieu of proceeding to trial and cases indefinitely continued upon arrest of judgment or prayer for judgment continued are deemed convictions. The Secretary may act to suspend or revoke licenses upon the basis of any conviction in which:
  - (1) No notice of appeal has been given;
  - (2) The time for appeal has expired without an appeal having been perfected; or
  - (3) The conviction is sustained on appeal. Where there is a new trial, finality of any subsequent conviction will be determined in the manner set out above.
- (b) The Secretary must initiate an administrative procedure designed to give the Secretary systematic notice of all convictions of criminal offenses by licensees covered by subsection (a) of this section above and keep a file of all convictions reported.
- (c), (d) Repealed by Session Laws 2010-145, s. 2, effective October 1, 2012.
- (e) A licensee served with a notice of suspension or revocation may obtain an administrative review of the suspension or revocation by filing a petition for a contested case under G.S. 150B-23 within 20 days after receiving the notice. The only issue in the hearing shall be whether the licensee was convicted of a criminal offense for which a license must be suspended or revoked. A license remains suspended or revoked pending the final decision.
- (f) If the Secretary refuses to reissue the license or issue an additional license to an applicant whose license was revoked, the applicant may contest the decision by filing a petition for a contested case under G.S. 150B-23 within 20 days after the Secretary makes the decision. The Commission shall make the final agency decision in a contested

case under this subsection. An applicant whose license is denied under this subsection may not reapply for the same license for at least six months.

- (g) The Commission may adopt rules to provide for the disclosure of the identity of any individual or individuals in responsible positions of control respecting operations of any licensee that is not an individual. For the purposes of this section, individuals in responsible positions of control are deemed to be individual licensees and subject to suspension and revocation requirements in regard to any applications for license they may make – either as individuals or as persons in responsible positions of control in any corporation, partnership, or association. In the case of individual licensees, the individual applying for a license or licensed under this Article, Article 14B, or Article 25A of Chapter 113 of the General Statutes to take resources under the jurisdiction of the Marine Fisheries Commission must be the real party in interest.
- (h) In determining whether a conviction is a second or subsequent offense under the provisions of this section, the Secretary may not consider convictions for:
  - (1) Offenses that occurred three years prior to the effective date of this Article; or
  - (2) Offenses that occurred more than three years prior to the time of the latest offense the conviction for which is in issue as a subsequent conviction. (1997-400, s. 5.1; 2001-213, s. 2; 2010-145, s. 2; 2011-398, s. 34.)

**G.S. 113-171.1. Use of spotter planes in commercial fishing operations regulated.**

- (a) Spotter Plane Defined. - A "spotter plane" is an aircraft used for aerial identification of the location of fish in coastal fishing waters so that a vessel may be directed to the fish.
- (b) License. - Before an aircraft is used as a spotter plane in a commercial fishing operation, the owner or operator of the aircraft must obtain a license for the aircraft from the Division. The fee for a license for a spotter plane is one hundred twenty-five dollars (\$125.00). An applicant for a license for a spotter plane shall include in the application the identity, either by boat or by company, of the specific commercial fishing operations in which the spotter plane will be used during the license year. If, during the course of the license year, the aircraft is used as a spotter plane in a commercial fishing operation that is not identified in the original license application, the owner or operator of the aircraft shall amend the license application to add the identity of the additional commercial fishing operation.
- (c) Unlawful Activity. - It shall be unlawful to:
  - (1) Use a spotter plane directed at food fish, except in connection with a purse seine operation authorized by a rule of the Commission.
  - (2) Use or permit the use of an unlicensed spotter plane or a licensed spotter plane whose license application does not identify the specific commercial fishing operation involved.
  - (3) Participate knowingly in a commercial fishing operation that uses an unlicensed spotter plane or a licensed spotter plane whose license application does not identify the specific commercial fishing operation involved.
- (d) Violation a Misdemeanor. - A violation of subsection (c) of this section is a Class 1 misdemeanor. (1997-400, s. 5.1; 2001-213, s. 2; 2013-360, s. 14.8(l).)

**G.S. 113-172. License agents.**

- (a) The Secretary shall designate license agents for the Department. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission. The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence or misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 143B-920.
- (b) License agents shall be compensated by adding a surcharge of one dollar (\$1.00) to each license sold and retaining the surcharge. If more than one license is listed on a consolidated license form, the license agent shall be compensated as if a single license were sold. It is unlawful for a license agent to add more than the surcharge authorized by this section to the fee for each license sold. (1997-400, s. 5.1; 1999-209, s. 3; 2001-213, s. 2; 2013-384, s. 1; 2014-100, s. 17.1(qq).)

**G.S. 113-173. Recreational Commercial Gear License.**

- (a) License Required. - Except as provided in subsection (j) of this section, it is unlawful for any person to take or attempt to take fish for recreational purposes by means of commercial fishing equipment or gear in coastal fishing waters without holding a RCGL. As used in this section, fish are taken for recreational purposes if the fish are not

taken for the purpose of sale. The RCGL entitles the licensee to use authorized commercial gear to take fish for personal use subject to recreational possession limits. It is unlawful for any person licensed under this section or fishing under a RCGL to possess fish in excess of recreational possession limits.

- (b) Sale of Fish Prohibited. - It is unlawful for the holder of a RCGL or for a person who is exempt under subsection (j) of this section to sell fish taken under the RCGL or pursuant to the exemption.
- (c) Authorized Commercial Gear. -
  - (1) The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial operation and commercial gear used for recreational purposes.
  - (2) A person who holds a RCGL may use up to 100 yards of gill net to take fish for recreational purposes. Two persons who each hold a RCGL and who are fishing from a single vessel may use up to a combined 200 yards of gill net to take fish for recreational purposes. No more than 200 yards of gill net may be used to take fish for recreational purposes from a single vessel regardless of the number of persons aboard the vessel who hold a RCGL.
- (d) Purchase; Renewal. - A RCGL may be purchased at designated offices of the Division and from a license agent authorized under G.S. 113-172. A RCGL may be renewed by mail.
- (e) Replacement RCGL. - The provisions of G.S. 113-168.1(h) apply to this section.
- (f) Duration; Fees. - The RCGL shall be valid from the date of issue for a period of 12 months as defined by G.S. 113-270.1B(b) and G.S. 113-270.1B(c). The fee for a RCGL for a North Carolina resident shall be seventy dollars (\$70.00). The fee for a RCGL for an individual who is not a North Carolina resident shall be five hundred dollars (\$500.00).
- (g) RCGL Available for Inspection. - It is unlawful for any person to engage in recreational fishing by means of restricted commercial gear in the State without having ready at hand for inspection a valid RCGL. A holder of a RCGL shall not refuse to exhibit the RCGL upon the request of an inspector or any other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.
- (h) Assignment and Transfer Prohibited. - A RCGL is not transferable. Except as provided in subsection (j) of this section, it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a RCGL, or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a RCGL.
- (i) Reporting Requirements. - The holder of a RCGL shall comply with the biological data sampling and survey programs of the Commission and the Division.
- (j) Exemptions. -
  - (1) A person who is under 16 years of age may take fish for recreational purposes by means of authorized commercial gear without holding a RCGL if the person is accompanied by a parent, grandparent, or guardian who holds a valid RCGL or if the person has in the person's possession a valid RCGL issued to the person's parent, grandparent, or guardian.
  - (2) A person may take crabs for recreational purposes by means of one or more crab pots attached to the shore along privately owned land or to a privately owned pier without holding a RCGL provided that the crab pots are attached with the permission of the owner of the land or pier.
  - (3) A person who is on a vessel may take fish for recreational purposes by means of authorized commercial gear without holding a RCGL if there is another person on the vessel who holds a valid RCGL. This exemption does not authorize the use of commercial gear in excess of that authorized for use by the person who holds the valid RCGL or, if more than one person on the vessel holds a RCGL, in excess of that authorized for use by those persons.
  - (4) A person using nonmechanical means may take shellfish for personal use within the limits specified in G.S. 113-169.2(i) without holding a RCGL.
  - (5) A person may take fish for recreational purposes by means of a gig without holding a RCGL. (1997-400, s.5.1; 1997-456, s. 55.7; 1998-225, s. 4.21; 1999-209, s. 9; 2000-139, s.1; 2001-213, s. 2; 2003-340, s. 1.2; 2004-187, s. 4; 2005-455, s. 1.18; 2013-360, s. 14.8(m); 2014-100, ss. 14.9(g), 14.25(c).)

**G.S. 113-173.1. North Carolina Commercial Fishing Resource Fund.**

(a) Establishment. - There is hereby established the North Carolina Commercial Fishing Resources Fund (Fund) as a nonreverting special revenue fund in the office of the State Treasurer. The purpose of the Fund is to provide funding for the development of sustainable commercial fishing in the State. The principal of the Fund shall consist of all of the following:

- (1) Two hundred dollars (\$200.00) from each Standard Commercial Fishing License issued pursuant to G.S. 113-168.2.
- (2) One hundred dollars (\$100.00) from each Retired Standard Commercial Fishing License issued pursuant to G.S. 113-168.3.
- (3) Twenty-five dollars (\$25.00) from each shellfish license issued pursuant to G.S. 113-169.2.
- (4) Fifty dollars (\$50.00) from each fish dealer license issued pursuant to G.S. 113-169.3.
- (5) Two hundred dollars (\$200.00) from each land or sell license issued pursuant to G.S. 113-169.5.
- (6) Thirty-five dollars (\$35.00) from each Recreational Commercial Gear License issued pursuant to G.S. 113-173.

The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Fund in accordance with the provisions of G.S. 147-69.2, except that interest and other income received on the fund balance shall be treated as set forth in G.S. 147-69.1(d).

(b) Use of Funds. - The North Carolina Commercial Fishing Resource Fund created by this section shall be used only for the following purposes, in order of priority:

- (1) First, the Fund shall fully fund the State's incidental take permits for the commercial fishing industry under the federal Endangered Species Act of 1973 (Public Law 93-205) or the federal Marine Mammal Protection Act of 1972 (Public Law 92-522).
- (2) After the priority set forth in subdivision (1) of this section has been fully funded, the Fund may be used for other projects to develop and support sustainable commercial fishing in the State.

(c) Procedure for Fund Disbursements. - With respect to funds used pursuant to subdivision (b)(1) of this section, the State Treasurer shall disburse the principal of the Fund only upon the written direction of the Director of the Division. With respect to funds used pursuant to subdivision (b)(2) of this section, the State Treasurer shall disburse the principal of the Fund only upon the written direction of both the Marine Fisheries Commission and the Funding Committee established by subsection (d) of this section following the procedures set forth in the memorandum of understanding developed under subsection (f) of this section. In the event of a disagreement between the Commission and the Committee, the Secretary of Environmental Quality shall decide between the directions proposed by the Commission and by the Committee.

(d) Funding Committee. - The Funding Committee for the North Carolina Commercial Fishing Resource Fund (Committee) is established and shall consist of six members who shall serve staggered terms. Each of the following commercial fishing organizations shall appoint one member for an initial term as indicated and provide notice of that appointment in the manner set forth in G.S. 143-47.6:

- (1) North Carolina Fisheries Association, Inc., for a term of three years.
- (2) North Carolina Watermen United, Inc., for a term of two years.
- (3) Ocracoke Working Watermen's Association, for a term of one year.
- (4) Brunswick County Fishermen's Association, for a term of three years.
- (5) Carteret County Fishermen's Association, for a term of two years.
- (6) Albemarle Fishermen's Association, for a term of one year.

Upon the expiration of the terms of the initial Committee members, each member shall be appointed by the appointing organizations designated in subdivisions (1) through (6) of this subsection for a three-year term and shall serve until a successor is appointed and qualified. Members may be reappointed, but no member may serve more than two consecutive full terms. The Committee shall elect annually a chair and other officers as it deems necessary to carry out the purposes of this section, who shall serve a term of one year corresponding to the calendar year.

(e) Vacancies, Meetings, Quorum. - Vacancies in the Committee shall be filled in the same manner as the original appointment. The Committee may meet at any time upon the call of the chair. A quorum of the group shall consist of four members.

(f) Memorandum of Understanding. - The Marine Fisheries Commission and the Committee shall develop and implement a memorandum of understanding setting forth the procedures for agreeing to and authorizing the disbursements from the Fund created in this section for the purposes described by subdivision (b)(2) of this section.

(g) Ethics. - Members of the Committee are public servants as defined in sub-subdivision i. of subdivision (70) of G.S. 138A-3. (2014-100, s. 14.9(i); 2015-241, s. 14.30(y); 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

#### **G.S. 113-174. Definitions.**

As used in this Article:

- (1) Repealed by Session Laws 2005-455, s. 1.2, effective January 1, 2007.
- (1a) "CRFL" means Coastal Recreational Fishing License.
- (2) "Division" means the Division of Marine Fisheries in the Department of Environmental Quality.
- (2a) "For Hire Vessel" means a charter boat, head boat, dive boat, or other vessel hired to allow individuals to engage in recreational fishing.
- (3) "North Carolina resident" means an individual who is a resident within the meaning of G.S. 113-130(4).

- (4) "Recreational fishing" means any activity preparatory to, during, or subsequent to the taking of any finfish, the taking of which is subject to regulation by the Marine Fisheries Commission, by any means if the purpose of the taking is to obtain finfish that are not to be sold. "Recreational fishing" does not include the taking of finfish:
  - a. By a commercial fishing operation as defined in G.S. 113-168.
  - b. For scientific purposes pursuant to G.S. 113-261.
  - c. Under a RCGL issued pursuant to G.S. 113-173.
- (5) Repealed by Session Laws 2005-455, s. 1.2, effective January 1, 2007. (2004-187, s. 2; 2005-455, ss. 1.2, 1.19; 2013-360, s. 14.8(n); 2015-241, s. 14.30(u).)

**G.S. 113-174.1. License required; general provisions governing licenses.**

(a) License Required to Engage in Recreational Fishing. - It is unlawful for any individual to engage in recreational fishing in:

- (1) Coastal fishing waters that are not joint fishing waters without holding a current license issued under this Article or under Article 25A of this Chapter that authorizes the individual to engage in recreational fishing in coastal fishing waters.
- (2) Joint fishing waters without holding a current license issued under this Article or under Article 21 or Article 25A of this Chapter that authorizes the individual to engage in recreational fishing in joint fishing waters.

(a1) Compliance With Applicable Laws. - It is unlawful for any individual to engage in recreational fishing without complying with applicable requirements of this Article and Articles 21 and 25A of this Chapter and with applicable rules adopted by the Marine Fisheries Commission and the Wildlife Resources Commission.

(a2) Fourth of July Free Fishing Day. - The fourth day of July of each year is declared a free fishing day to promote the sport of fishing, and no license issued under this Article or Article 25A of this Chapter is required to fish in any of the public waters of the State on that day. All other laws and rules pertaining to recreational fishing apply.

(b) Sale of Fish Prohibited. - A license issued under this Article or Article 25A of this Chapter does not authorize an individual who takes or lands any species of fish under the authority of the Marine Fisheries Commission to sell, offer for sale, barter, or exchange the fish for anything of value. Except as provided in G.S. 113-168.4, it is unlawful for any individual who takes or lands any species of fish under the authority of the Marine Fisheries Commission by any means to sell, offer for sale, barter, or exchange these fish for anything of value.

(c) Assignment and Transfer Prohibited. - It is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article or Article 25A of this Chapter or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article or Article 25A of this Chapter.

(d), (e) Repealed by Session Laws 2005-455, s. 1.3, effective January 1, 2007.

(f) Cancellation of Fraudulent License; Penalties. - The Wildlife Resources Commission may cancel a license issued by the Commission under this Article or Article 25A of this Chapter if the license was issued on the basis of false information supplied by the license applicant. The Division may cancel a For Hire Blanket License issued under G.S. 113-174.3 if the license was issued on the basis of false information supplied by the license applicant. A cancelled license is void from the date of issuance. It is a Class 1 misdemeanor for an individual to knowingly do any of the following:

- (1) Engage in any activity regulated under this Article with an improper, false, or altered license.
- (2) Make any false, fraudulent, or misleading statement in applying for a license issued under this Article or Article 25A of this Chapter.
- (3) Counterfeit, alter, or falsify any application or license issued under this Article or Article 25A of this Chapter.

(g) Reporting Requirements. - A person licensed under this Article or Article 25A of this Chapter shall comply with the biological data sampling and survey programs of the Marine Fisheries Commission and the Division.

(h) Replacement Licenses. - Upon receipt of a proper application together with a fee of five dollars (\$5.00), the Wildlife Resources Commission or the Division may issue a new license to replace one issued by the respective agency that has been lost or destroyed before its expiration. The application must be on a form of the Wildlife Resources Commission or the Division setting forth information in sufficient detail to allow ready identification of the lost or destroyed license and ascertainment of the applicant's continued entitlement to it. . (2004-187, s. 2; 2005-455, ss. 1.3, 1.19; 2016-94, s. 14.8.)

**G.S. 113-174.2. Coastal Recreational Fishing License.**

(a) Repealed by Session Laws 2005-455, s. 1.4, effective January 1, 2007.

(a1) Authorization to Fish in Coastal and Joint Fishing Waters. – A CRFL issued under this section authorizes the licensee to engage in recreational fishing in coastal fishing waters, including joint fishing waters. A CRFL issued under this section does not authorize the licensee to fish in inland fishing waters.

(b) Repealed by Session Laws 2005-455, s. 1.4, effective January 1, 2007.

(c) Types of CRFLs; Fees; Duration. – The Wildlife Resources Commission shall issue the following CRFLs:

- (1) Annual Resident CRFL. – \$15.00. This license is valid from the date of issue for a period of 12 months as defined by G.S. 113-270.1B(b) and G.S. 113-270.1B(c). This license shall be issued only to an individual who is a resident of the State.
- (1a) Annual Nonresident CRFL. – \$30.00. This license is valid from the date of issue for a period of 12 months as defined by G.S. 113-270.1B(b) and G.S. 113-270.1B(c). This license shall be issued only to an individual who is not a resident of the State.
- (2) Repealed by Session Laws 2005-455, s. 1.4, effective January 1, 2007.
- (3) Repealed by Session Laws 2005-455, s. 1.4, effective January 1, 2007.
- (4) Ten-Day Resident CRFL. – \$5.00. This license is valid for a period of 10 consecutive days, as indicated on the license. This license shall be issued only to an individual who is a resident of the State.
- (4a) Ten-Day Nonresident CRFL. – \$10.00. This license is valid for a period of 10 consecutive days, as indicated on the license. This license shall be issued only to an individual who is not a resident of the State.
- (5) Repealed by Session Laws 2005-455, s. 1.4, effective January 1, 2007.
- (6) Lifetime CRFLs. – Except as provided in sub-subdivision j. of this subdivision, CRFLs issued under this subdivision are valid for the lifetime of the licensee.
  - a. - d. Repealed by Session Laws 2005-455, s. 1.4, effective January 1, 2007.
  - e. Infant Lifetime CRFL. – \$100.00. This license shall be issued only to an individual younger than one year of age.
  - f. Youth Lifetime CRFL. – \$150.00. This license shall be issued only to an individual who is one year of age or older but younger than 12 years of age.
  - g. Resident Adult Lifetime CRFL. – \$250.00. This license shall be issued only to an individual who is 12 years of age or older but younger than 70 years of age and who is a resident of the State.
  - h. Nonresident Adult Lifetime CRFL. – \$500.00. This license shall be issued only to an individual who is 12 years of age or older and who is not a resident of the State.
  - i. Resident Age 70 Lifetime CRFL. – \$15.00. This license shall be issued only to an individual who is 70 years of age or older and who is a resident of the State.
  - j. Resident Disabled Veteran CRFL. – \$10.00. This license shall be issued only to an individual who is a resident of the State and who is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans Affairs or as established by G.S. 113-351(c)(3)(f). This license remains valid for the lifetime of the licensee so long as the licensee remains fifty percent (50%) or more disabled.
  - k. Resident Totally Disabled CRFL. – \$10.00. This license shall be issued only to an individual who is a resident of the State and who is totally and permanently disabled as determined by the Social Security Administration or as established by G.S. 113-351(c)(3)(g).
- (d) Exemptions. – An individual is exempt from the license requirements of G.S. 113-174.1(a) if the individual either:
  - (1) Is under 16 years of age.
  - (2) Holds any of the following licenses that were purchased prior to January 1, 2006:
    - a. Infant Lifetime Sportsman License issued under G.S. 113-270.1D(b)(1).
    - b. Youth Lifetime Sportsman License issued under G.S. 113-270.1D(b)(2).
    - c. Adult Resident Lifetime Sportsman License issued under G.S. 113-270.1D(b)(3).
    - d. Nonresident Lifetime Sportsman License issued under G.S. 113-270.1D(b)(4).
    - e. Age 70 Resident Lifetime Sportsman License issued under G.S. 113-270.1D(b)(5).
    - f. Lifetime Resident Comprehensive Fishing License issued under G.S. 113-271(d)(3).
    - g. Lifetime Combination Hunting and Fishing License for Disabled Residents issued under G.S. 113-270.1C(b)(4).
    - h. Disabled Resident Sportsman License issued under G.S. 113-270.1D(b)(6).
  - (3) Holds any of the following licenses:
    - a. Lifetime Fishing License for the Legally Blind issued under G.S. 113-271(d)(7).
    - b. Adult Care Home Resident Fishing License issued under G.S. 113-271(d)(8). (2004-187, s. 2; 2005-455, ss. 1.4, 1.19; 2006-79, s. 1; 2013-283, s. 11; 2014-100, s. 14.25(b).)

**G.S. 113-174.3. For-Hire Licenses.**

- (a), (b) Repealed by Session Laws 2013-360, s. 14.8(o), effective August 1, 2013.
- (c) License. - It is unlawful for a person to engage in a for-hire operation without having obtained one of the following licenses issued by the Division:
  - (1) Blanket For-Hire Captain's CRFL. - This license allows individuals properly licensed by the United States Coast Guard to carry passengers on any vessel with a commercial vessel registration with a for-hire endorsement. A Blanket For-Hire Captain's CRFL authorizes all individuals on the for-hire

vessel who do not hold a license issued under this Article or Article 25A of this Chapter to engage in recreational fishing in coastal fishing waters that are not joint fishing waters. The resident fees for a Blanket For-Hire Captain's CRFL are two hundred fifty dollars (\$250.00) for a vessel carrying six or fewer passengers and three hundred fifty dollars (\$350.00) for a vessel carrying more than six passengers. The nonresident fees for a Blanket For-Hire Captain's CRFL are three hundred twelve dollars and fifty cents (\$312.50) for a vessel carrying six or fewer passengers and four hundred thirty-seven dollars and fifty cents (\$437.50) for a vessel carrying more than six passengers. Any vessel whose operator is licensed under this subdivision and that is engaged in for-hire fishing must obtain a Commercial Fishing Vessel Registration with a for-hire endorsement.

- (2) Blanket For-Hire Vessel CRFL. - This license allows any United States Coast Guard licensed operator to carry passengers aboard the licensed vessel. A Blanket For-Hire Vessel CRFL authorizes all individuals on the for-hire vessel who do not hold a license issued under this Article or Article 25A of this Chapter to engage in recreational fishing in coastal fishing waters that are not joint fishing waters. The resident fees for a Blanket For-Hire Vessel CRFL are two hundred fifty dollars (\$250.00) for a vessel carrying six or fewer passengers and three hundred fifty dollars (\$350.00) for a vessel carrying more than six passengers. The nonresident fees for a Blanket For-Hire Vessel CRFL are three hundred twelve dollars and fifty cents (\$312.50) for a vessel carrying six or fewer passengers and four hundred thirty-seven dollars and fifty cents (\$437.50) for a vessel carrying more than six passengers. Any vessel whose operator is licensed under this subdivision and that is engaged in for-hire fishing is not required to obtain a Commercial Fishing Vessel Registration with a for-hire endorsement.
- (3) Non-Blanket For-Hire Vessel License. - This license allows any United States Coast Guard licensed operator to carry passengers aboard the licensed vessel. This license does not authorize individuals aboard the vessel to engage in recreational fishing unless they hold an individual CRFL issued under this Article or Article 25A of this Chapter. The fee for the Non-Blanket For-Hire Vessel License is twenty-five dollars (\$25.00) for a vessel operated by a resident operator and thirty-seven dollars and fifty cents (\$37.50) for a vessel operated by a nonresident operator. Any vessel whose operator is licensed under this subdivision and that is engaged in for-hire fishing is not required to obtain a Commercial Fishing Vessel Registration with a for-hire endorsement.

(d) A license issued under this section does not authorize individuals to engage in recreational fishing in joint fishing waters or inland fishing waters. All for-hire licenses expire on the last day of the license year.

(e) Repealed by Session Laws 2015-201, s. 1, effective August 5, 2015. (2005-455, s. 1.5; 2006-255, s. 7; 2006-259, s. 20.5; 2013-360, s. 14.8(o); 2015-201, s. 1.)

**G.S. 113-174.5. Blocks of 10 Ten-Day Coastal Recreational Fishing Licenses.**

- (a) The owner of a vessel that is 23 feet or more in length and that is either documented with the United States Coast Guard or registered with the Wildlife Resources Commission pursuant to G.S. 75A-4 may purchase a block of 10 Ten-Day CRFLs issued by the Division. A vessel owner who wishes to obtain a block of 10 Ten-Day CRFLs shall provide the Division with all information required by the Division, including information identifying the vessel on which the Ten-Day CRFLs will be used. Each individual Ten-Day CRFL shall identify the vessel for which the block of 10 Ten-Day CRFLs is issued. An individual Ten-Day CRFL issued as part of a block of 10 Ten-Day CRFLs may only be used on the vessel for which it was issued. An individual Ten-Day CRFL issued as part of a block of 10 Ten-Day CRFLs may not be used on a for hire vessel. A block of 10 Ten-Day CRFLs shall expire two years from the date of purchase.
- (b) The fee for a block of 10 Ten-Day CRFLs is one hundred fifty dollars (\$150.00). An individual Ten-Day CRFL issued as part of a block of 10 Ten-Day CRFLs is valid for a period of 10 consecutive days beginning on the date that the license information is recorded as provided by subsection (c) of this section.
- (c) Prior to any recreational fishing occurring under the authority of an individual Ten-Day CRFL issued as part of a block of 10 Ten-Day CRFLs, the vessel owner who purchased the block of 10 Ten-Day CRFLs shall record the date fishing activity will begin and the name, address, telephone number, and date of birth of the individual who will be fishing under the authority of the individual Ten-Day CRFL.
- (d) A vessel owner who purchases a block of 10 Ten-Day CRFLs shall comply with all data and information reporting requirements of the Division.
- (e) A vessel owner who fails to comply with any of the requirements governing the issuance, use, recording, or reporting of blocks of 10 Ten-Day CRFLs will be ineligible to purchase any additional blocks of 10 Ten-Day CRFLs for a period of two years from the date of noncompliance. (2008-141, s. 1; 2013-360, s. 14.8(q).)

**G.S. 113-175. Definitions.**

As used in this Article:

- (1) Repealed by Session Laws 2005-455, s. 2.2, effective January 1, 2006.
- (1a) "Endowment Fund" means the North Carolina Marine Resources Endowment Fund.
- (1b) "Endowment investment income" means interest and other income earned from the investment of the principal of the Endowment Fund.
- (1c) "Endowment license revenues" means the net proceeds from the sale of licenses issued under G.S. 113-174.2(c)(6) and a portion of the net proceeds from the sale of licenses issued under G.S. 113-351(c)(3) and (4). The apportionment of the net proceeds from the sale of licenses issued under G.S. 113-351(c)(3) and (4) shall be jointly determined by the Division of Marine Fisheries and the Wildlife Resources Commission. In the event that the Division of Marine Fisheries and the Wildlife Resources Commission cannot agree on the apportionment, the Governor is authorized to determine the apportionment.
- (2) "Marine Resources Fund" means the North Carolina Marine Resources Fund.
- (3) "Marine resources investment income" means interest earned from the investment of the principal of the Marine Resources Fund.
- (4) "Marine resources license revenues" means the net proceeds from the sale of licenses issued under Article 14B of this Chapter and a portion of the net proceeds from the sale of licenses issued under Article 25A of this Chapter, excluding endowment license revenues. The apportionment of the net proceeds from the sale of licenses issued under Article 25A of this Chapter shall be jointly determined by the Division of Marine Fisheries and the Wildlife Resources Commission. In the event that the Division of Marine Fisheries and the Wildlife Resources Commission cannot agree on the apportionment, the Governor is authorized to determine the apportionment. (2004-187, s. 1; 2005-455, s. 2.2.)

**G.S. 113-175.1. North Carolina Marine Resources Fund.**

(a) There is hereby established the North Carolina Marine Resources Fund as a nonreverting special revenue fund in the office of the State Treasurer. The purpose of the Marine Resources Fund is to enhance the marine resources of the State. The principal of the Marine Resources Fund shall consist of:

- (1) Marine resources license revenues.
- (2) Proceeds of any gifts, grants, and contributions to the State that are specifically designated for inclusion in the Marine Resources Fund.
- (3) Funds realized from the sale, lease, rental, or other grant of rights to real or personal property acquired or produced from funds disbursed from the Marine Resources Fund.
- (4) Federal aid project reimbursements to the extent that funds disbursed from the Marine Resources Fund originally funded the project for which the reimbursement is made.

(b) The State Treasurer shall hold the Marine Resources Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Marine Resources Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3, and all marine resources investment income shall be deposited to the credit of the Marine Resources Fund. The State Treasurer shall disburse the principal of the Marine Resources Fund and marine resources investment income only upon the written direction of the Division of Marine Fisheries of the Department of Environmental Quality.

(c) The Division of Marine Fisheries of the Department of Environmental Quality may authorize the disbursement of the principal of the Marine Resources Fund and marine resources investment income only to manage, protect, restore, develop, cultivate, conserve, and enhance the marine resources of the State. The Division of Marine Fisheries may not authorize the disbursement of the principal of the Marine Resources Fund and marine resources investment income to establish positions without specific authorization from the General Assembly. Prior to authorizing disbursements from the Marine Resources Fund, the Division of Marine Fisheries shall consult with the Wildlife Resources Commission about these proposals. Expenditure of the assets of the Marine Resources Fund shall be made through the State budget accounts of the Division of Marine Fisheries in accordance with the provisions of the Executive Budget Act. The Marine Resources Fund is subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

(d) To enhance fishing opportunities, the Marine Resources Fund may be used to construct artificial reefs in the estuarine and ocean waters of the State and federal waters up to 20 nautical miles from land. (2004-187, s. 1; 2005-455, s. 2.3; 2011-145, s. 13.18; 2013-360, s. 14.9(a), (b); 2017-57, ss. 13.15(c), 13.16.)

**G.S. 113-175.5. North Carolina Marine Resources Endowment Fund.**

(a) There is hereby established the North Carolina Marine Resources Endowment Fund as a nonreverting special revenue fund in the office of the State Treasurer. The purpose of the Endowment Fund is to provide the citizens and residents of the State with the opportunity to invest in the future of the marine resources of the State. The principal of the Endowment Fund shall consist of:

- (1) Endowment license revenues.
- (2) Proceeds of any gifts, grants, or contributions to the State that are specifically designated for inclusion in the Endowment Fund.
- (3) Proceeds of any gifts, grants, or contributions to the Marine Fisheries Commission or the Division of Marine Fisheries that are not specifically designated for another purpose.
- (4) Funds realized from the sale, lease, rental, or other grant of rights to real or personal property acquired or produced from endowment investment income.
- (5) Federal aid project reimbursements to the extent that endowment investment income originally funded the project for which the reimbursement is made.
- (6) Transfers to the Endowment Fund.
- (7) Any endowment investment income or marine resources license revenue that is credited to the Endowment Fund for the purpose of increasing the principal of the Endowment Fund.

(b) The State Treasurer shall hold the Endowment Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Endowment Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The State Treasurer shall disburse the endowment investment income only upon the written direction of the Division of Marine Fisheries of the Department of Environmental Quality.

(c) Subject to the limitations set out in subsection (d) of this section, the Division of Marine Fisheries of the Department of Environmental Quality may authorize the disbursement of endowment investment income only to manage, protect, restore, develop, cultivate, conserve, and enhance the marine resources of the State. The Division of Marine Fisheries may not authorize the disbursement of endowment investment income to establish positions without specific authorization from the General Assembly. Prior to authorizing disbursements from the Marine Resources Endowment Fund, the Division of Marine Fisheries shall consult with the Wildlife Resources Commission about funding requests.

(d) The Endowment Fund is declared to constitute a special trust derived from a contractual relationship between the State and the members of the public whose investments contribute to the Endowment Fund. In recognition of this special trust, all of the following limitations are placed on disbursement of funds held in the Endowment Fund:

- (1) Any restrictions specified by the donors on the uses of income derived from gifts, grants, and voluntary contributions shall be respected but shall not be binding.
- (2) No disbursements of the endowment investment income derived from the endowment license revenues generated by the sale of Infant Lifetime CRFLs under G.S. 113-174.2(c)(6)e., Youth Lifetime CRFLs under G.S. 113-174.2(c)(6)f., Infant Lifetime Unified Sportsman/Coastal Recreational Fishing Licenses under G.S. 113-351(c)(3)a., or Youth Lifetime Unified Sportsman/Coastal Recreational Fishing Licenses under G.S. 113-351(c)(3)b. shall be made for any purpose until the respective licensees attain the age of 16 years. The State Treasurer shall periodically make an actuarial determination as to the amount of endowment investment income within the Endowment Fund that remains encumbered by the restriction of this subdivision and the amount that is free of the restriction. The Executive Director of the Wildlife Resources Commission shall provide the State Treasurer with the information necessary to make this determination.
- (3) No disbursement shall be made from the principal of the Endowment Fund except as otherwise provided by law.

(e) Expenditure of the endowment investment income shall be made through the State budget accounts of the Division of Marine Fisheries in accordance with the provisions of the Executive Budget Act. The Endowment Fund is subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. (2005-455, s. 2.7; 2013-360, s. 14.9(c), (d); 2017-57, s. 13.15(d).)

#### **G.S. 113-181. Duties and powers of Department.**

- (a) It is the duty of the Department to administer and enforce the provisions of this Subchapter pertaining to the conservation of marine and estuarine resources. In execution of this duty, the Department may collect such statistics, market information, and research data as is necessary or useful to the promotion of sports and commercial fisheries in North Carolina and the conservation of marine and estuarine resources generally; conduct or contract for research programs or research and development programs applicable to resources generally and to methods of cultivating, harvesting, marketing, or processing fish as may be beneficial in achieving the objectives of this Subchapter; enter into reciprocal agreements with other jurisdictions with regard to the conservation of marine and estuarine resources; and regulate placement of nets and other sports or commercial fishing apparatus in coastal fishing waters with regard to navigational and recreational safety as well as from a conservation standpoint.
- (b) The Department is directed to make every reasonable effort to carry out the duties imposed in this Subchapter. (1915, c. 84, s. 5; 1917, c. 290, s. 10; C.S., s. 1883; 1953, c. 1086; 1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1987, c. 827, s. 101.)

**G.S. 113-182. Regulation of fishing and fisheries.**

- (a) The Marine Fisheries Commission is authorized to authorize, license, regulate, prohibit, prescribe, or restrict all forms of marine and estuarine resources in coastal fishing waters with respect to:
- (1) Time, place, character, or dimensions of any methods or equipment that may be employed in taking fish;
  - (2) Seasons for taking fish;
  - (3) Size limits on and maximum quantities of fish that may be taken, possessed, bailed to another, transported, bought, sold, or given away.
- (b) The Marine Fisheries Commission is authorized to authorize, regulate, prohibit, prescribe, or restrict and the Department is authorized to license:
- (1) The opening and closing of coastal fishing waters, except as to inland game fish, whether entirely or only as to the taking of particular classes of fish, use of particular equipment, or as to other activities within the jurisdiction of the Department; and
  - (2) The possession, cultivation, transportation, importation, exportation, sale, purchase, acquisition, and disposition of all marine and estuarine resources and all related equipment, implements, vessels, and conveyances as necessary to implement the work of the Department in carrying out its duties.
  - (3) The possession, transportation, importation, exportation, sale, purchase, acquisition, and disposition of all fish taken in the Atlantic Ocean out to a distance of 200 miles from the State's mean low watermark, consistent with the Magnuson Fishery Conservation and Management Act, 16 U.S.C. § 1801, et seq., as amended. (1915, c. 84, s. 21; 1917, c. 290, s. 7; C.S., s. 1878; 1925, c. 168, s. 2; 1935, c. 35; 1945, c. 776; 1953, cc.774, 1251; 1961, c. 1189, s. 1; 1963, c. 1097, s. 1; 1965, c.957, s. 2; 1973, c. 1262, s. 28; 1995, c. 507, s. 26.5(c); 1997-400, s. 6.6.)

**G.S. 113-182.1. Fishery Management Plans.**

(a) The Department shall prepare proposed Fishery Management Plans for adoption by the Marine Fisheries Commission for all commercially or recreationally significant species or fisheries that comprise State marine or estuarine resources. Proposed Fishery Management Plans shall be developed in accordance with the Priority List, Schedule, and guidance criteria established by the Marine Fisheries Commission under G.S. 143B-289.52.

(b) The goal of the plans shall be to ensure the long-term viability of the State's commercially and recreationally significant species or fisheries. Each plan shall be designed to reflect fishing practices so that one plan may apply to a specific fishery, while other plans may be based on gear or geographic areas. Each plan shall:

- (1) Contain necessary information pertaining to the fishery or fisheries, including management goals and objectives, status of relevant fish stocks, stock assessments for multiyear species, fishery habitat and water quality considerations consistent with Coastal Habitat Protection Plans adopted pursuant to G.S. 143B-279.8, social and economic impact of the fishery to the State, and user conflicts.
- (2) Recommend management actions pertaining to the fishery or fisheries.
- (3) Include conservation and management measures that will provide the greatest overall benefit to the State, particularly with respect to food production, recreational opportunities, and the protection of marine ecosystems, and that will produce a sustainable harvest.
- (4) Repealed by Session Laws 2010-13, s. 1, effective June 23, 2010.
- (5) Specify a time period, not to exceed two years from the date of the adoption of the plan, to end overfishing. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.
- (6) Specify a time period, not to exceed 10 years from the date of the adoption of the plan, for achieving a sustainable harvest. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.
- (7) Include a standard of at least fifty percent (50%) probability of achieving sustainable harvest for the fishery or fisheries. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.

(c) To assist in the development of each Fishery Management Plan, the Chair of the Marine Fisheries Commission shall appoint a fishery management plan advisory committee. Each fishery management plan advisory committee shall be composed of commercial fishermen, recreational fishermen, and scientists, all with expertise in the fishery for which the Fishery Management Plan is being developed.

(c1) The Department shall consult with the regional advisory committees established pursuant to G.S. 143B-289.57(e) regarding the preparation of each Fishery Management Plan. Before submission of a plan for review by the Joint Legislative Commission on Governmental Operations, the Department shall review any comment or recommendation regarding the plan that a regional advisory committee submits to the Department within the time limits established in the Schedule for the development and adoption of Fishery Management Plans established by G.S. 143B-289.52. Before the

Commission adopts a management measure to implement a plan, the Commission shall review any comment or recommendation regarding the management measure that a regional advisory committee submits to the Commission.

(d) Each Fishery Management Plan shall be reviewed at least once every five years. The Marine Fisheries Commission may revise the Priority List and guidance criteria whenever it determines that a revision of the Priority List or guidance criteria will facilitate or improve the development of Fishery Management Plans or is necessary to restore, conserve, or protect the marine and estuarine resources of the State. The Marine Fisheries Commission may not revise the Schedule for the development of a Fishery Management Plan, once adopted, without the approval of the Secretary of Environmental Quality.

(e) The Secretary of Environmental Quality shall monitor progress in the development and adoption of Fishery Management Plans in relation to the Schedule for development and adoption of the plans established by the Marine Fisheries Commission. The Secretary of Environmental Quality shall report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division within 30 days of the completion or substantial revision of each proposed Fishery Management Plan. The Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources shall review each proposed Fishery Management Plan within 30 days of the date the proposed Plan is submitted by the Secretary. The Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources may submit comments and recommendations on the proposed Plan to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary.

(e1) If the Secretary determines that it is in the interest of the long-term viability of a fishery, the Secretary may authorize the Commission to develop temporary management measures to supplement an existing Fishery Management Plan pursuant to this subsection. Development of temporary management measures pursuant to this subsection is exempt from subsections (c), (c1), and (e) of this section and the Priority List, Schedule, and guidance criteria established by the Marine Fisheries Commission under G.S. 143B-289.52. During the next review period for a Fishery Management Plan supplemented pursuant to this subsection, the Commission shall either incorporate the temporary management measures into the revised Fishery Management Plan or the temporary management measures shall expire on the date the revised Fishery Management Plan is adopted.

(f) The Marine Fisheries Commission shall adopt rules to implement Fishery Management Plans in accordance with Chapter 150B of the General Statutes.

(g) To achieve sustainable harvest under a Fishery Management Plan, the Marine Fisheries Commission may include in the Plan a recommendation that the General Assembly limit the number of fishermen authorized to participate in the fishery. The Commission may recommend that the General Assembly limit participation in a fishery only if the Commission determines that sustainable harvest cannot otherwise be achieved. In determining whether to recommend that the General Assembly limit participation in a fishery, the Commission shall consider all of the following factors:

- (1) Current participation in and dependence on the fishery.
- (2) Past fishing practices in the fishery.
- (3) Economics of the fishery.
- (4) Capability of fishing vessels used in the fishery to engage in other fisheries.
- (5) Cultural and social factors relevant to the fishery and any affected fishing communities.
- (6) Capacity of the fishery to support biological parameters.
- (7) Equitable resolution of competing social and economic interests.
- (8) Any other relevant considerations. (1997-400, s. 3.4; 1997-443, s. 11A.119(b); 1998-212, s. 14.3; 1998-225, s. 2.1; 2001-213, s. 1; 2001-452, s. 2.1; 2004-160, ss. 3, 4; 2007-495, ss. 6, 7; 2010-13, s. 1; 2010-15, s. 1; 2011-291, ss. 2.27, 2.28; 2012-201, s. 1; 2013-360, s. 14.8(r); 2015-241, s. 14.30(v); 2015-286, s. 4.12(b); 2017-57, s. 14.1(d).)

**G.S. 113-183. Unlawful possession, transportation and sale of fish.**

- (a) It is unlawful to possess, transport, offer to transport, sell, offer to sell, receive, buy, or attempt to buy any fish regulated by the Department with knowledge or reason to believe that such fish are illicit.
- (b) Fish are illicit when taken, possessed, or dealt with unlawfully, or when there has occurred at any time with respect to such fish a substantial failure of compliance with the applicable provisions of this Subchapter or of rules made under the authority of this Subchapter. (1961, c. 1189, s. 2; 1965, c. 957, s. 2; 1987, c. 827, s. 98.)

**G.S. 113-184. Possession and transportation of prohibited oyster equipment.**

- (a) It is unlawful to carry aboard any vessel subject to licensing requirements under Article 14A under way or at anchor in coastal fishing waters during the regular closed oyster season any scoops, scrapes, dredges, or winders such as are usually or can be used for taking oysters. Provided that when such vessels are engaged in lawfully permitted oyster harvesting operations on any privately held shellfish bottom lease under G.S. 113-202 or G.S. 113-205, the vessel shall be exempt from this requirement.
- (b) If any vessel has recently been under way or at anchor in coastal fishing waters engaged in activity similar in manner to that in which oysters are taken with scoops, scrapes, or dredges and at a time or place in which the taking of oysters is prohibited, the presence on board of the vessel of wet oysters or scoops, scrapes, dredges,

- lines, or deck wet, indicating the taking of oysters, constitutes prima facie evidence that the vessel was engaged in taking oysters unlawfully with scoops, scrapes, or dredges at the time or place prohibited.
- (c) Repealed by Session Laws 1991, c. 86, s. 1. (1903, c.516, ss. 13-15, 28; Rev., ss. 2385, 2397; C.S., s. 1926; 1963, c. 452; 1965, c. 957, s. 2; 1991, c. 86, s. 1; 1991 (Reg. Sess., 1992), c. 788, s. 1; 1998-225, s. 3.3.)

**G.S. 113-185. Fishing near ocean piers; trash or scrap fishing.**

- (a) It is unlawful to fish in the ocean from vessels or with a net within 750 feet of an ocean pier licensed in accordance with G.S. 113-169.4. The prohibition shall be effective when:
- (1) Buoys or beach markers, placed at the owner's expense in accordance with the rules adopted by the Marine Fisheries Commission, indicate clearly to fishermen in vessels and on the beach the requisite distance of 750 feet from the pier, and
  - (2) The public is allowed to fish from the pier for a reasonable fee. The prohibition shall not apply to littoral proprietors whose property is within 750 feet of a duly licensed ocean pier.
- (b) It is unlawful to engage in any fishing operations known as trash fishing or scrap fishing. "Trash fishing" or "scrap fishing" consists of taking the young of edible fish before they are of sufficient size to be of value as individual food fish:
- (1) For commercial disposition as bait; or
  - (2) For sale to any dehydrating or nonfood processing plant; or
  - (3) For sale or commercial disposition in any manner.
- The Marine Fisheries Commission may by rule authorize the disposition of the young of edible fish taken in connection with the legitimate commercial fishing operations, provided that the quantity of such fish that may be disposed of is sufficiently limited, or the taking and disposition is otherwise so regulated, as to discourage any practice of trash or scrap fishing for its own sake. (1965, c. 957, s. 2; 1973, c. 1262, ss. 28, 86; 1985, c. 452, ss. 1-4; 1987, c. 641, s. 5; c. 827, s. 98; 1991, c. 86, s. 2; 1998-225, s. 3.4.)

**G.S. 113-187. Penalties for violations of Subchapter and rules.**

- (a) Any person who participates in a commercial fishing operation conducted in violation of any provision of this Subchapter and its implementing rules or in an operation in connection with which any vessel is used in violation of any provision of this Subchapter and its implementing rules is guilty of a Class A1 misdemeanor.
- (b) Any owner of a vessel who knowingly permits it to be used in violation of any provision of this Subchapter and its implementing rules is guilty of a Class A1 misdemeanor.
- (c) Any person in charge of a commercial fishing operation conducted in violation of any provision of this Subchapter and its implementing rules or in charge of any vessel used in violation of any provision of this Subchapter and its implementing rules is guilty of a Class A1 misdemeanor.
- (d) Any person in charge of a commercial fishing operation conducted in violation of the following provisions of this Subchapter or the following rules of the Marine Fisheries Commission; and any person in charge of any vessel used in violation of the following provisions of the Subchapter or the following rules, shall be guilty of a Class A1 misdemeanor. The violations of the statute or the rules for which the penalty is mandatory are:
  - (1) Taking or attempting to take, possess, sell, or offer for sale any oysters, mussels, or clams taken from areas closed by statute, rule, or proclamation because of suspected pollution.
  - (2) Taking or attempting to take or have in possession aboard a vessel, shrimp taken by the use of a trawl net, in areas not opened to shrimping, pulled by a vessel not showing lights required by G.S. 75A-6 after sunset and before sunrise.
  - (3) Using a trawl net in any coastal fishing waters closed by proclamation or rule to trawl nets.
  - (4) Violating the provisions of a special permit or gear license issued by the Department.
  - (5) Using or attempting to use any trawl net, long haul seine, swipe net, mechanical methods for oyster or clam harvest or dredge in designated primary nursery areas.
- (e) Any person who takes menhaden or Atlantic thread herring by the use of a purse seine net deployed by a mother ship and one or more runner boats in coastal fishing waters is guilty of a Class A1 misdemeanor. (1965, c. 957, s. 2; 1973, c. 1102; c. 1262, ss. 28, 86; 1977, c. 771, s. 4; 1979, c. 388, s. 5; 1987, c. 641, s. 6; c. 827, s. 98; 1989, c. 275, s. 2; 1993, c. 539, s. 839; 1994, Ex. Sess., c. 24, s. 14(c); 1997-400, s. 4.1; 2012-190, s. 3(a).)

**G.S. 113-188. Additional restrictions authorized.**

The setting out of particular offenses or requirements with regard to specific species of fish or with regard to certain types of equipment does not affect the authority of the Marine Fisheries Commission to make similar additional restrictions not in conflict with the provisions of this Article under authority granted in this Chapter. (1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1987, c. 827, s. 102.)

**G.S. 113-189. Protection of sea turtles, marine mammals, migratory birds, and finfish.**

- (a) It is unlawful to willfully take, harm, disturb or destroy any sea turtles protected under the federal Endangered Species Act of 1973 (Public Law 93-205), as it may be subsequently amended, including green, hawksbill, loggerhead, Kemp's ridley, and leatherback turtles, or their nests or eggs.
- (b) It shall be unlawful willfully to take, harm, disturb, or destroy marine mammals protected under the federal Marine Mammal Protection Act of 1972 (Public Law 92-522), as it may be subsequently amended.
- (c) It shall be unlawful willfully to take, harm, disturb, or destroy migratory birds protected under the federal Migratory Bird Treaty Act of 1918 (16 U.S.C. §§ 703 through 712), as it may be subsequently amended, unless such action is permitted by regulations.
- (d) It shall be unlawful willfully to take, harm, disturb, or destroy finfish protected under the federal Endangered Species Act of 1973 (Public Law 93-205), as it may be subsequently amended. (1967, cc. 198, 1225; 1981, c. 873; 1991, c. 86, s. 3; 2013-413, s. 37(b).)

**G.S. 113-191. Unlawful sale or purchase of fish; criminal and civil penalties.**

- (a) Any person who sells fish in violation of G.S. 113-168.4 or a rule of the Marine Fisheries Commission to implement that section is guilty of a Class A1 misdemeanor.
- (b) Any person who purchases fish in violation of G.S. 113-169.3 or a rule of the Marine Fisheries Commission to implement that section is guilty of a Class A1 misdemeanor.
- (c) A civil penalty of not more than ten thousand dollars (\$10,000) may be assessed by the Secretary against any person who sells fish in violation of G.S. 113-168.4 or purchases fish in violation of G.S. 113-169.3.
- (d) In determining the amount of the penalty, the Secretary shall consider the factors set out in G.S. 143B-289.53(b). The procedures set out in G.S. 143B-289.53 shall apply to civil penalty assessments that are presented to the Commission for final agency decision.
- (e) The Secretary shall notify any person assessed a civil penalty of the assessment and the specific reasons therefor by registered or certified mail or by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed pursuant to G.S. 150B-23 within 30 days of receipt of the notice of assessment.
- (f) Requests for remission of civil penalties shall be filed with the Secretary. Remission requests shall not be considered unless filed within 30 days of receipt of the notice of assessment. Remission requests must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the assessment was based. Consistent with the limitations in G.S. 143B-289.53(c), remission requests may be resolved by the Secretary and the violator. If the Secretary and the violator are unable to resolve the request, the Secretary shall deliver remission requests and his recommended action to the Committee on Civil Penalty Remissions of the Marine Fisheries Commission appointed pursuant to G.S. 143B-289.53(c).
- (g) If any civil penalty has not been paid within 30 days after notice of assessment has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment, unless the violator contests the assessment as provided in subsection (e) of this section, or requests remission of the assessment in whole or in part as provided in subsection (f) of this section. If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Civil actions must be filed within three years of the date the final agency decision or court order was served on the violator. (1997-400, ss. 4.2, 4.5; 1998-225, ss. 3.5, 3.6.)

**G.S. 113-201. Legislative findings and declaration of policy; authority of Marine Fisheries Commission.**

- (a) The General Assembly finds that shellfish cultivation provides increased seafood production and long-term economic and employment opportunities. The General Assembly also finds that shellfish cultivation provides increased ecological benefits to the estuarine environment by promoting natural water filtration and increased fishery habitats. The General Assembly declares that it is the policy of the State to encourage the development of private, commercial shellfish cultivation in ways that are compatible with other public uses of marine and estuarine resources such as navigation, fishing, and recreation.
- (b) The Marine Fisheries Commission is empowered to make rules and take all steps necessary to develop and improve the cultivation, harvesting, and marketing of shellfish in North Carolina both from public grounds and private beds. In order to assure the public that some waters will remain open and free from shellfish cultivation activities, the Marine Fisheries Commission may limit the number of acres in any area that may be granted as shellfish cultivation leases.
- (c) The Marine Fisheries Commission shall adopt rules to establish training requirements for persons applying for new shellfish cultivation leases and for persons acquiring shellfish cultivation leases by lawful transfer. These

training requirements shall be designed to encourage the productive use of shellfish cultivation leases. Training requirements established pursuant to this subsection shall not apply to either:

- (1) An applicant who applies for a new shellfish cultivation lease if, at the time of the application, the applicant holds one or more shellfish cultivation leases and all of the leases meet the shellfish production requirements established by the Marine Fisheries Commission.
- (2) A person who receives a shellfish cultivation lease by lawful transfer if, at the time of the transfer, the person holds one or more shellfish cultivation leases and all of the leases meet the shellfish production requirements established by the Marine Fisheries Commission. (1921, c. 132, s. 1; C.S., s. 1959(a); 1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1983, c. 621, s. 2; 1987, c. 827, s. 98; 2004-150, s. 1; 2009-433, s. 3.)

**G.S. 113-201.1. Definitions.**

As used in this Article:

- (1) "Natural shellfish bed" means an area of public bottom where oysters, clams, scallops, mussels or other shellfish are found to be growing in sufficient quantities to be valuable to the public.
- (2) "Riparian owner" means the holder(s) of the fee title to land that is bordered by waters of an arm of the sea or any other navigable body of water.
- (3) "Shellfish" means oysters, clams, scallops, mussels or any other species of mollusks that the Marine Fisheries Commission determines suitable for cultivation, harvesting, and marketing from public grounds and private beds.
- (3a) "Shellfish Aquaculture Enterprise Area" means an area established pursuant to G.S. 113-202(s) or G.S. 113-202.1(j).
- (4) "Single family unit" means the husband and wife and any unemancipated children in the household.
- (5) "Water column" means the vertical extent of water, including the surface, above a designated area of submerged bottom land. (1983, c. 621, s. 3; 1987, c. 641, s. 15; 2015-241, s. 14.10C(a); 2019-37, s. 1(a).)

**G.S. 113-202. New and renewal leases for shellfish cultivation; termination of leases issued prior to January 1, 1966.**

(a) To increase the use of suitable areas underlying coastal fishing waters for the production of shellfish, the Secretary may grant shellfish cultivation leases to persons who reside in North Carolina under the terms of this section when the Secretary determines, in accordance with his duty to conserve the marine and estuarine resources of the State, that the public interest will benefit from issuance of the lease. Suitable areas for the production of shellfish shall meet the following minimum standards:

- (1) The area leased must be suitable for the cultivation and harvesting of shellfish in commercial quantities.
- (2) Except as provided under subsection (n) of this section, the area leased must not contain a natural shellfish bed.
- (3) Cultivation of shellfish in the leased area will be compatible with lawful utilization by the public of other marine and estuarine resources. Other public uses which may be considered include, but are not limited to, navigation, fishing and recreation.
- (4) Cultivation of shellfish in the leased area will not impinge upon the rights of riparian owners.
- (5) The area leased must not include an area designated for inclusion in the Department's Shellfish Management Program.
- (6) The area leased must not include an area which the State Health Director has recommended be closed to shellfish harvest by reason of pollution.

(b) The Secretary may delete any part of an area proposed for lease or may condition a lease to protect the public interest with respect to the factors enumerated in subsection (a) of this section. The Secretary may not grant a new lease in an area heavily used for recreational purposes. Except as prohibited by federal law, the Secretary shall not exclude any area from leasing solely on the basis that the area contains submerged aquatic vegetation and shall make specific findings based on the standards set forth in subsection (a) of this section prior to reaching a decision not to grant or renew a lease for shellfish cultivation for any area containing submerged aquatic vegetation.

(c) No person, including a corporate entity, or single family unit may acquire and hold by lease, lease renewal, or purchase more than 50 acres of public bottoms under shellfish cultivation leases. For purposes of this subsection, the number of acres of leases held by a person includes acres held by a corporation in which the person holds an interest. The Marine Fisheries Commission may adopt rules to require the submission of information necessary to ensure compliance with this subsection.

(d) Any person desiring to apply for a lease must make written application to the Secretary on forms prepared by the Department containing such information as deemed necessary to determine the desirability of granting or not granting the lease requested. Except in the case of renewal leases, the application must be accompanied by a map or diagram made at the expense of the applicant, showing the area proposed to be leased.

(d1) The map or diagram must conform to standards prescribed by the Secretary concerning accuracy of map or diagram and the amount of detail that must be shown. If on the basis of the application information and map or diagram the Secretary deems that granting the lease would benefit the shellfish culture of North Carolina, the Secretary, in the case of initial lease applications, must order an investigation of the bottom proposed to be leased. The investigation is to be made by the Secretary or his authorized agent to determine whether the area proposed to be leased is consistent with the standards in subsection (a) of this section and any other applicable standards under this Article and the rules of the Marine Fisheries Commission. In the event the Secretary finds the application inconsistent with the applicable standards, the Secretary shall deny the application or propose that a conditional lease be issued that is consistent with the applicable standards. In the event the Secretary authorizes amendment of the application, the applicant must furnish a new map or diagram meeting requisite standards showing the area proposed to be leased under the amended application. At the time of making application for an initial lease, the applicant must pay a filing fee of two hundred dollars (\$200.00).

(e) The area of bottom applied for in the case of an initial lease or amended initial lease must be as compact as possible, taking into consideration the shape of the body of water, the consistency of the bottom, and the desirability of separating the boundaries of a leasehold by a sufficient distance from any known natural shellfish bed to prevent the likelihood of disputes arising between the leaseholder and members of the public taking shellfish from the natural bed.

(f) Within a reasonable time after receipt of an application that complies with subsection (d), the Secretary shall notify the applicant of the intended action on the lease application. If the intended action is approval of the application as submitted or approval with a modification to which the applicant agrees, the Secretary shall conduct a public hearing in the county where the proposed leasehold lies. The Secretary must publish at least two notices of the intention to lease in a newspaper of general circulation in the county in which the proposed leasehold lies. The first publication must precede the public hearing by more than 20 days; the second publication must follow the first by seven to 11 days. The notice of intention to lease must contain a sufficient description of the area of the proposed leasehold that its boundaries may be established with reasonable ease and certainty and must also contain the date, hour and place of the hearing.

(g) After consideration of the public comment received and any additional investigations the Secretary orders to evaluate the comments, the Secretary shall notify the applicant in person or by certified or registered mail of the decision on the lease application. The Secretary shall also notify persons who submitted comments at the public hearing and requested notice of the lease decision. An applicant who is dissatisfied with the Secretary's decision may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after receiving notice of the Secretary's decision. In the event the Secretary's decision is a modification to which the applicant agrees, the lease applicant must furnish an amended map or diagram before the lease can be issued by the Secretary. A person other than the applicant who is aggrieved by the Secretary's decision may file a petition for a contested case hearing only if the Shellfish Cultivation Lease Review Committee established pursuant to G.S. 143B-289.57(f) determines that a hearing is appropriate. A request for a determination of the appropriateness of a contested case hearing shall be made in writing and received by the Review Committee within 30 days after the disputed decision is made. A determination of the appropriateness of a contested case shall be made by the Review Committee within 90 days after a request for a determination is received and shall be based on whether the person seeking to commence a contested case:

- (1) Has alleged that the decision is contrary to a statute or rule.
- (2) Is directly affected by the decision.
- (3) Has alleged facts or made legal arguments that demonstrate that the request for the hearing is not frivolous.

If the Review Committee determines that a contested case is appropriate, the petition for a contested case shall be filed within 30 days after the Review Committee makes its determination. A determination that a person may not commence a contested case is a final agency decision and is subject to judicial review under Article 4 of Chapter 150B of the General Statutes. If, on judicial review, the court determines that the Review Committee erred in determining that a contested case would not be appropriate, the court shall remand the matter for a contested case hearing under G.S. 150B-23 and final decision on the permit pursuant to G.S. 113A-122. Decisions in such cases shall be rendered pursuant to those rules, regulations, and other applicable laws in effect at the time of the commencement of the contested case.

The applicant or another person aggrieved by a final decision under this section may appeal the decision to the superior court of the county where the proposed lease or any part thereof is located, pursuant to the provisions of Chapter 150B of the General Statutes.

(h) Repealed by Session Laws 1993, c. 466, s. 1.

(i) After a lease application is approved by the Secretary, the applicant shall submit to the Secretary information sufficient to define the bounds of the area approved for leasing with markers in accordance with the rules of the Commission. The information shall conform to standards prescribed by the Secretary concerning accuracy and the amount of detail to be shown. When information is submitted, the boundaries are marked and all fees and rents due in advance are paid, the Secretary shall execute the lease on forms approved by the Attorney General. The Secretary is authorized, with the approval of the lessee, to amend an existing lease by reducing the area under lease or by combining contiguous leases without increasing the total area leased. The information required by this subsection may be based on coordinate information produced using a device equipped to receive global positioning system data.

(j) Initial leases begin upon the issuance of the lease by the Secretary and expire at noon on the first day of July following the tenth anniversary of the granting of the lease. Renewal leases are issued for a period of 10 years from the time of expiration of the previous lease. At the time of making application for renewal of a lease, the applicant must pay a filing fee of one hundred dollars (\$100.00). The rental for initial leases is one dollar (\$1.00) per acre until noon on the first day of July following the first anniversary of the lease. Thereafter, for initial leases and from the beginning for renewals of leases entered into after that date, the rental is ten dollars (\$10.00) per acre per year. Rental must be paid annually in advance prior to the first day of July each year. Upon initial granting of a lease, the pro rata amount for the portion of the year left until the first day of July must be paid in advance at the rate of one dollar (\$1.00) per acre per year; then, on or before the first day of July next, the lessee must pay the rental for the next full year.

(k) Except as restricted by this Subchapter, leaseholds granted under this section are to be treated as if they were real property and are subject to all laws relating to taxation, sale, devise, inheritance, gift, seizure and sale under execution or other legal process, and the like. Leases properly acknowledged and probated are eligible for recordation in the same manner as instruments conveying an estate in real property. Within 30 days after transfer of beneficial ownership of all or any portion of or interest in a leasehold to another, the new owner must notify the Secretary of such fact. Such transfer is not valid until notice is furnished the Secretary. In the event such transferee is a nonresident, the Secretary must initiate proceedings to terminate the lease.

(l) Upon receipt of notice by the Secretary of any of the following occurrences, he must commence action to terminate the leasehold:

- (1) Failure to pay the annual rent in advance.
- (2) Failure to file information required by the Secretary upon annual remittance of rental or filing false information on the form required to accompany the annual remittance of rental.
- (3) Failure by new owner to report a transfer of beneficial ownership of all or any portion of or interest in the leasehold.
- (4) Failure to mark the boundaries in the leasehold and to keep them marked as required in the rules of the Marine Fisheries Commission.
- (5) Failure to utilize the leasehold on a continuing basis for the commercial production of shellfish.
- (6) Transfer of all or part of the beneficial ownership of a leasehold to a nonresident.
- (7) Substantial breach of compliance with the provisions of this Article or of rules of the Marine Fisheries Commission governing use of the leasehold.
- (8) Failure to comply with the training requirements established by the Marine Fisheries Commission pursuant to G.S. 113-201(c).

(ll) The Marine Fisheries Commission is authorized to make rules defining commercial production of shellfish, based upon the productive potential of particular areas climatic or biological conditions at particular areas or particular times, availability of seed shellfish, availability for purchase by lessees of shells or other material to which oyster spat may attach, and the like. Commercial production may be defined in terms of planting effort made as well as in terms of quantities of shellfish harvested. Provided, however, that if a lessee has made a diligent effort to effectively and efficiently manage his lease according to accepted standards and practices in such management, and because of reasons beyond his control, such as acts of God, such lessee has not and cannot meet the requirements set out by the Marine Fisheries Commission under the provisions of this subsection, his leasehold shall not be terminated under subdivision (5) of subsection (l) of this section.

(m) In the event the leaseholder takes steps within 30 days to remedy the situation upon which the notice of intention to terminate was based and the Secretary is satisfied that continuation of the lease is in the best interests of the shellfish culture of the State, the Secretary may discontinue termination procedures. Where there is no discontinuance of termination procedures, the leaseholder may initiate a contested case by filing a petition under G.S. 150B-23 within 30 days of receipt of notice of intention to terminate. Where the leaseholder does not initiate a contested case, or the final decision upholds termination, the Secretary must send a final letter of termination to the leaseholder. The final letter of termination may not be mailed sooner than 30 days after receipt by the leaseholder of the Secretary's notice of intention to terminate, or of the final agency decision, as appropriate. The lease is terminated effective at midnight on the day the final notice of termination is served on the leaseholder. The final notice of termination may not be issued pending hearing of a contested case initiated by the leaseholder.

Service of any notice required in this subsection may be accomplished by certified mail, return receipt requested; personal service by any law-enforcement officer; or upon the failure of these two methods, publication. Service by publication shall be accomplished by publishing such notices in a newspaper of general circulation within the county where the lease is located for at least once a week for three successive weeks. The format for notice by publication shall be approved by the Attorney General.

(n) Upon final termination of any leasehold, the Secretary may do any of the following:

- (1) Make the bottom available for a new lease application for a period of 18 months.
- (2) Designate the bottom as a Shellfish Aquaculture Enterprise Area.
- (3) Make the bottom open to the public for use in accordance with laws and rules governing use of public grounds generally.

Within 30 days of final termination of the leasehold, the former leaseholder shall remove all abandoned gear and markers denominating the area of the leasehold as a private bottom. The State may, after 10 days' notice to the owner of the abandoned gear and markers thereof, remove the abandoned structure and have the area cleaned up. The cost of such removal and cleanup shall be payable by the owner of the abandoned gear and markers and the State may bring suit to recover the costs thereof.

(o) Every year between January 1 and February 15 the Secretary must mail to all leaseholders a notice of the annual rental due and include forms designed by him for determining the amount of shellfish or shells planted on the leasehold during the preceding calendar year, and the amount of harvest gathered. Such forms may contain other pertinent questions relating to the utilization of the leasehold in the best interests of the shellfish culture of the State, and must be executed and returned by the leaseholder with the payment of his rental. Any leaseholder or his agent executing such forms for him who knowingly makes a false statement on such forms is guilty of a Class 1 misdemeanor.

(p) All leases and renewal leases granted after the effective date of this Article are made subject to this Article and to reasonable amendment of governing statutes, rules of the Marine Fisheries Commission, and requirements imposed by the Secretary or his agents in regulating the use of the leasehold or in processing applications of rentals. This includes such statutory increase in rentals as may be necessitated by changing conditions and refusal to renew lease after expiration, in the discretion of the Secretary. No increase in rentals, however, may be given retroactive effect.

The General Assembly declares it to be contrary to public policy to the oyster and clam bottoms which were leased prior to January 1, 1966, and which are not being used to produce oysters and clams in commercial quantities to continue to be held by private individuals, thus depriving the public of a resource which belongs to all the people of the State. Therefore, when the Secretary determines, after due notice to the lessee, and after opportunity for the lessee to be heard, that oysters or clams are not being produced in commercial quantities, due to the lessee's failure to make diligent effort to produce oysters and clams in commercial quantities, the Secretary may decline to renew, at the end of the current term, any oyster or clam bottom lease which was executed prior to January 1, 1966. The lessee may appeal the denial of the Secretary to renew the lease by initiating a contested case pursuant to G.S. 150B-23. In such contested cases, the burden of proof, by the greater weight of the evidence, shall be on the lessee.

(q) Repealed by Session Laws 1983, c. 621, s. 16.

(r) A lease under this section shall include the right to place devices or equipment related to the cultivation or harvesting of marine resources on or within 18 inches of the leased bottom. Devices or equipment not resting on the bottom or extending more than 18 inches above the bottom will require a water column lease under G.S. 113-202.1.

(s) The Secretary may establish Shellfish Aquaculture Enterprise Areas for bottom leasing pursuant to this subsection. The Secretary may establish one or more Shellfish Aquaculture Enterprise Areas that comply with the requirements of this section, including the notice, public hearing, and public comment requirements; any other State requirements for shellfish leasing; and any applicable federal requirements. Leases issued in a Shellfish Aquaculture Enterprise Area shall be nontransferable and shall revert to the State upon relinquishment or termination. The Marine Fisheries Commission may adopt any rules necessary to implement this subsection. (1893, c. 287, s. 1; Rev., s. 2371; 1909, c. 871, ss. 1-9; 1919, c. 333, s. 6; C.S., ss. 1902-1911; Ex. Sess. 1921, c. 46, s. 1; 1933, c. 346; 1953, cc. 842, 1139; 1963, c. 1260, ss. 1-3; 1965, c. 957, s. 2; 1967, c. 24, s. 16; c. 88; c. 876, s. 1; 1971, c. 447; 1973, c. 476, s. 128; c. 1262, ss. 28, 86; 1983, c. 601, ss. 1-3; c. 621, ss. 4-16; 1985, c. 275, ss. 1-3; 1987, c. 641, s. 16; c. 773, s. 11; c. 827, s. 98; 1989, c. 423, s. 2; c. 727, s. 99; 1991 (Reg. Sess., 1992), c. 788, s. 2; 1993, c. 466, s. 1; c. 539, s. 840; 1994, Ex. Sess., c. 24, s. 14(c); 2004-150, ss. 2, 3, 4; 2009-433, ss. 4, 5; 2011-398, s. 35; 2015-241, ss. 14.10(a), (b), 14.10C(b); 2015-263, s. 11(a); 2016-94, s. 14.11(a); 2019-37, ss. 1(b), 4(a), (b), 6(b).)

#### **G.S. 113-202.1. Water column leases for aquaculture.**

(a) To increase the productivity of leases for shellfish culture issued under G.S. 113-202, the Secretary may amend shellfish cultivation leases to authorize use of the water column superjacent to the leased bottom under the terms of this section when he determines the public interest will benefit from amendment of the leases. Leases with water column amendments must produce shellfish in commercial quantities at four times the minimum production rate of leases issued under G.S. 113-202, or any higher quantity required by the Marine Fisheries Commission through duly adopted rules.

(b) Suitable areas for the authorization of water column use shall meet the following minimum standards:

- (1) Aquaculture use of the leased area must not significantly impair navigation;
- (2) The leased area must not be within a navigation channel marked or maintained by a state or federal agency;
- (3) The leased area must not be within an area traditionally used and available for fishing or hunting activities incompatible with the activities proposed by the leaseholder, such as trawling or seining;
- (4) Aquaculture use of the leased area must not significantly interfere with the exercise of riparian rights by adjacent property owners including access to navigation channels from piers or other means of access; and
- (5) Any additional standards, established by the Commission in duly adopted rules, to protect the public interest in coastal fishing waters.

(c) The Secretary shall not amend shellfish cultivation leases to authorize uses of the water column involving devices or equipment not resting on the bottom or that extend more than 18 inches above the bottom unless:

- (1) The leaseholder submits an application, accompanied by a nonrefundable application fee of one hundred dollars (\$100.00), which conforms to the standards for lease applications in G.S. 113-202(d) and the duly adopted rules of the Commission;
- (2) The proposed amendment has been noticed consistent with G.S. 113-202(f);
- (3) Public hearings have been conducted consistent with G.S. 113-202(g);
- (4) The aspects of the proposals which require use and dedication of the water column have been documented and are recognized by the Secretary as commercially feasible forms of aquaculture which will enhance shellfish production on the leased area;
- (5) It is not feasible to undertake the aquaculture activity outside of coastal fishing waters; and
- (6) The authorized water column use has the least disruptive effect on other public trust uses of the waters of any available technology to produce the shellfish identified in the proposal.

(d) Amendments of shellfish cultivation leases to authorize use of the water column are issued for a period of 10 years or the remainder of the term of the lease, whichever is shorter. The annual rental for a new or renewal water column amendment is one hundred dollars (\$100.00) an acre. If a water column amendment is issued for less than a 12-month period, the rental shall be prorated based on the number of months remaining in the year. The annual rental for an amendment is payable at the beginning of the year. The rental is in addition to that required in G.S. 113-202.

(e) Amendments of shellfish cultivation leases to authorize use of the water column are subject to termination in accordance with the procedures established in G.S. 113-202 for the termination of shellfish cultivation leases. Additionally, such amendments may be terminated for unauthorized or unlawful interference with the exercise of public trust rights by the leaseholder, agents and employees of the leaseholder.

(f) Amendments of shellfish cultivation leases to authorize use of the water column may be transferred only with the superincumbent bottom lease for the remainder of the term of the amendment at the same rental rate and term as set forth in subsection (d) of this section and so long as notice of the transfer is provided to the Secretary as required by G.S. 113-202(k).

(g) After public notice and hearing consistent with subsection (c) of this section, the Secretary may renew an amendment, in whole or in part, when the leaseholder has produced commercial quantities of shellfish and has otherwise complied with the rules of the Commission. Renewals may be denied or reduced in scope when the public interest so requires. Appeal of renewal decisions shall be conducted in accordance with G.S. 113-202(p). Renewals are subject to the lease terms and rates established in subsection (d) of this section.

(h) The procedures and requirements of G.S. 113-202 shall apply to proposed amendments or amendments of shellfish cultivation leases considered under this section except more specific provisions of this section control conflicts between the two sections.

(i) To the extent required by demonstration or research aquaculture development projects, the Secretary may amend existing leases and issue leases that authorize use of the bottom and the water column. Demonstration or research aquaculture development projects may be authorized for five years with no more than one renewal and when the project is proposed or formally sponsored by an educational institution which conducts research or demonstration of aquaculture. Production of shellfish with a sales value in excess of five thousand dollars (\$5,000) per acre per year shall constitute commercial production. Demonstration or research aquaculture development projects shall be exempt for the rental rate in subsection (d) of this section unless commercial production occurs as a result of the project.

(j) The Secretary may establish Shellfish Aquaculture Enterprise Areas for water column leasing pursuant to this subsection. The Secretary may establish one or more Shellfish Aquaculture Enterprise Areas that comply with the requirements of this section, including the notice, public hearing, and public comment requirements; any other State requirements for shellfish leasing; and any applicable federal requirements. Requirements under this section include the notice, public hearing, and public comment requirements of this section. Leases issued in a Shellfish Aquaculture Enterprise Area shall be nontransferable and shall revert to the State upon relinquishment or termination. The Marine Fisheries Commission may adopt any rules necessary to implement this subsection. (1989, c. 423, s. 1; 1989 (Reg. Sess., 1990), c. 1004, s. 4; c. 1024, s. 22; 1993, c. 322, s. 1; c. 466, s. 2; 2004-150, s. 5; 2015-241, s. 14.10C(c); 2015-268, s. 5.6; 2016-94, s. 14.11(b); 2016-123, s. 6.1(a); 2017-102, s. 33.4(a); 2019-37, s. 1(c).)

#### **G.S. 113-202.2. Water column leases for aquaculture for perpetual franchises.**

(a) To increase the productivity of shellfish grants and perpetual franchises for shellfish culture recognized under G.S. 113-206, the Secretary may lease the water column superjacent to such grants or perpetual franchises (hereinafter "perpetual franchises") under the terms of this section when it determines the public interest will benefit from the lease. Perpetual franchises with water column leases must produce shellfish in commercial quantities at four times the minimum production rate of leases issued under G.S. 113-202, or any higher quantity required by the Marine Fisheries Commission by rule.

- (b) Suitable areas for the authorization of water column use shall meet the following minimum standards:
- (1) Aquaculture use of the leased water column area must not significantly impair navigation;

- (2) The leased water column area must not be within a navigation channel marked or maintained by a State or federal agency;
- (3) The leased water column area must not be within an area traditionally used and available for fishing or hunting activities incompatible with the activities proposed by the perpetual franchise holder, such as trawling or seining;
- (4) Aquaculture use of the leased water column area must not significantly interfere with the exercise of riparian rights by adjacent property owners including access to navigation channels from piers or other means of access;
- (5) The leased water column area may not exceed 10 acres for grants or perpetual franchises recognized pursuant to G.S. 113-206;
- (6) The leased water column area must not extend more than one-third of the distance across any body of water or into the channel third of any body of water for grants or perpetual franchises recognized pursuant to G.S. 113-206; and
- (7) Any additional rules to protect the public interest in coastal fishing waters adopted by the Commission.

(c) The Secretary shall not lease the water column superjacent to oyster or other shellfish grants or perpetual franchises unless:

- (1) The perpetual franchise holder submits an application, accompanied by a nonrefundable application fee of one hundred dollars (\$100.00), which conforms to the standards for lease applications in G.S. 113-202(d) and rules adopted by the Commission;
- (2) Notice of the proposed lease has been given consistent with G.S. 113-202(f);
- (3) Public hearings have been conducted consistent with G.S. 113-202(g);
- (4) The aspects of the proposals which require use and dedication of the water column have been documented and are recognized by the Secretary as commercially feasible forms of aquaculture which will enhance shellfish production;
- (5) It is not feasible to undertake the aquaculture activity outside of coastal fishing waters; and
- (6) The authorized water column use has the least disruptive effect on other public trust uses of the waters of any available technology to produce the shellfish identified in the proposal.

(d) Water column leases to perpetual franchises shall be issued for a period of 10 years and may be renewed pursuant to subsection (g) of this section. The rental for an initial water column lease issued under this section is the same as the rental set in G.S. 113-202.1 for an initial water column amendment issued under that section, and the rental for a renewed water column lease issued under this section is the same as the rental set in G.S. 113-202.1 for a renewed water column amendment issued under that section.

(e) Water column leases to perpetual franchises may be terminated for unauthorized or unlawful interference with the exercise of public trust rights by the leaseholder or his agents or employees.

(f) Water column leases to perpetual franchises may be transferred only with the superincumbent perpetual franchise for the remainder of the term of the lease at the same rental rate and term as set forth in subsection (d) of this section and so long as notice of the transfer is provided to the Secretary as required by G.S. 113-202(k).

(g) After public notice and hearing consistent with G.S. 113-202(f) and (g), the Secretary may renew a water column lease, in whole or in part, if the leaseholder has produced commercial quantities of shellfish and has otherwise complied with this section and the rules of the Commission. Renewals may be denied or reduced in scope when the public interest so requires. Appeal of renewal decisions shall be conducted in accordance with G.S. 113-202(p). Renewals are subject to the lease terms and rates set out in subsection (d) of this section.

(h) The procedures and requirements of G.S. 113-202 shall apply to proposed water column leases or water column leases to perpetual franchises considered under this section except that more specific provisions of this section control conflicts between the two sections.

(i) Demonstration or research aquaculture development projects may be authorized for five years with no more than one renewal and when the project is proposed or formally sponsored by an educational institution which conducts aquaculture research or demonstration projects. Production of shellfish with a sales value in excess of five thousand dollars (\$5,000) per acre per year shall constitute commercial production. Demonstration or research aquaculture development projects shall be exempt from the rental rate in subsection (d) of this section unless commercial production occurs as a result of the project. (1989 (Reg. Sess., 1990), c. 958, s. 1; 1993, c. 322, s. 2; c. 466, s. 3; 2016-94, s. 14.11(c); 2016-123, s. 6.1(b); 2017-102, s. 33.4(b).)

### **G.S. 113-203. Transplanting of oysters and clams.**

(a) Repealed by Session Laws 2009-433, s. 6, effective August 7, 2009 (subdivision (a)(2)), and by Session Laws 2014-120, s. 26, effective September 18, 2014 (remainder of subsection (a)).

(a1) Repealed by Session Laws 2014-120, s. 26, effective September 18, 2014.

(a2) It is unlawful to do any of the following:

- (1) Transplant oysters or clams taken from public grounds to private beds except when lawfully taken during open season and transported directly to a private bed in accordance with rules of the Marine Fisheries Commission.
- (2) Transplant oysters or clams taken from permitted aquaculture operations to private beds except from waters in the approved classification.
- (3) Transplant oysters or clams from public grounds or permitted aquaculture operations utilizing waters in the restricted or conditionally approved classification to private beds except when the transplanting is done in accordance with the provisions of this section and implementing rules.

(a3) Unless the Secretary determines that the nursery of shellfish in an area will present a risk to public health, it is lawful to transplant seed oysters or seed clams taken from permitted aquaculture operations that use waters in the prohibited, restricted, or conditionally approved classification to private beds pursuant to an Aquaculture Seed Transplant Permit issued by the Secretary that sets times during which transplant is permissible and other reasonable restrictions imposed by the Secretary under either of the following circumstances:

- (1) When transplanting seed clams less than 12 millimeters in their largest dimension.
- (2) When transplanting seed oysters less than 25 millimeters in their largest dimension.

(a4) It is unlawful to conduct a seed transplanting operation pursuant to subsection (a3) of this section if the seed transplanting operation is not conducted in compliance with its Aquaculture Seed Transplant Permit.

(b) It is lawful to transplant from public bottoms to private beds oysters or clams taken from waters in the restricted or conditionally approved classifications with a permit from the Secretary setting out the waters from which the oysters or clams may be taken, the quantities which may be taken, the times during which the taking is permissible, and other reasonable restrictions imposed by the Secretary for the regulation of transplanting operations. Any transplanting operation which does not substantially comply with the restrictions of the permit issued is unlawful.

(c) Repealed by Session Laws 2009-433, s. 6, effective August 7, 2009.

(d) It is lawful to transplant to private beds in North Carolina oysters taken from natural or managed public beds designated by the Marine Fisheries Commission as seed oyster management areas. The Secretary shall issue permits to all qualified individuals who are residents of North Carolina without regard to county of residence to transplant seed oysters from said designated seed oyster management areas, setting out the quantity which may be taken, the times which the taking is permissible and other reasonable restrictions imposed to aid the Secretary in the Secretary's duty of regulating such transplanting operations. Persons taking such seed oysters may, in the discretion of the Marine Fisheries Commission, be required to pay to the Department for oysters taken an amount to reimburse the Department in full or in part for the costs of seed oyster management operations. Any transplanting operation which does not substantially comply with the restrictions of the permit issued is unlawful.

(e) The Marine Fisheries Commission may implement the provisions of this section by rules governing sale, possession, transportation, storage, handling, planting, and harvesting of oysters and clams and setting out any system of marking oysters and clams or of permits or receipts relating to them generally, from both public and private beds, as necessary to regulate the lawful transplanting of seed oysters and oysters or clams taken from or placed on public or private beds.

(f) The Commission may establish a fee for each permit established pursuant to this subsection in an amount that compensates the Division for the administrative costs associated with the permit but that does not exceed one hundred dollars (\$100.00) per permit.

(g) Advance Sale of Permits; Permit Revenue. - To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid. (1921, c. 132, s. 2; C.S., s. 1959(b); 1961, c. 1189, s. 1; 1965, c. 957, s. 2; 1967, c. 878; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1987, c. 641, s. 6; c. 827, s. 98; 1989, c. 727, s. 100; 1997-400, s. 5.7; 2007-495, s. 3; 2009-433, s. 6; 2013-360, s. 14.8(s); 2014-120, s. 26; 2019-37, s. 5.)

#### **G.S. 113-204. Propagation of shellfish.**

The Department is authorized to close areas of public bottoms under coastal fishing waters for such time as may be necessary in any program of propagation of shellfish. The Department is authorized to expend State funds planting such areas and to manage them in ways beneficial to the overall productivity of the shellfish industry in North Carolina. The Department in its discretion in accordance with desirable conservation objectives may make shellfish produced by it available to commercial fishermen generally, to those in possession of private shellfish beds, or to selected individuals cooperating with the Department in demonstration projects concerned with the cultivation, harvesting, or processing of shellfish. (1921, c. 132, s. 1; C.S., s. 1959(a); 1961, c. 1189, s. 1; 1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1989, c. 727, s. 101.)

**G.S. 113-205. Registration of grants in navigable waters; exercise of private fishery rights.**

- (a) Every person claiming to any part of the bed lying under navigable waters of any coastal county of North Carolina or any right of fishery in navigable waters of any coastal county superior to that of the general public must register the grant, charter, or other authorization under which he claims with the Secretary. Such registration must be accompanied by a survey of the claimed area, meeting criteria established by the Secretary for surveys of oyster and clam leases. All rights and titles not registered in accordance with this section on or before January 1, 1970, are hereby declared null and void. The Secretary must give notice of this section at least once each calendar year for three years by publication in a newspaper or newspapers of general circulation throughout all coastal counties of the State. For the purpose of this subsection, "coastal county" shall mean all the following counties: Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus, Craven, Currituck, Dare, Gates, Halifax, Hertford, Hyde, Martin, New Hanover, Northampton, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, and Washington. The provisions of this section shall not apply to the land lying under any private fish pond or irrigation pond.
- (b) The Marine Fisheries Commission may make reasonable rules governing utilization of private fisheries and may require grantees or others with private rights to mark their fishery areas or private beds in navigable waters as a precondition to the right of excluding the public from exercising the private rights claimed to be secured to them. Nothing in this section is to be deemed to confer upon any grantee or other person with private rights the power to impede navigation upon or hinder any other appropriate use of the surface of navigable waters of North Carolina. (1965, c. 957, s. 2; 1971, c. 346, s. 1; 1973, c. 1262, s. 28; 1987, c. 827, s. 98.)

**G.S. 113-206. Chart of grants, leases and fishery rights; overlapping leases and rights; contest or condemnation of claims; damages for taking of property.**

- (a) The Secretary must commence to prepare as expeditiously as possible charts of the waters of North Carolina containing the locations of all oyster and clam leaseholds made by the Department under the provisions of this Article and of all existing leaseholds as they are renewed under the provisions of this Article, the locations of all claims of grant of title to portions of the bed under navigable waters registered with him, and the locations of all areas in navigable waters to which a right of private fishery is claimed and registered with him. Charting or registering any claim by the Secretary in no way implies recognition by the State of the validity of the claim.
- (a1) If a claim is based on an oyster or other shellfish grantor a perpetual franchise for shellfish cultivation, the Secretary may, to resolve the claim, grant a shellfish lease to the claimant for part or all of the area claimed. If a claim of exclusive shellfishing rights was registered based upon a conveyance by the Literary Fund, the North Carolina Literary Board or the State Board of Education, and the claimant shows that the area had been cultivated by the claimant or his predecessor in title for the seven-year period prior to registration of the claim, the Secretary may, to resolve the claim, grant a shellfish lease to the claimant for all or part of the area claimed, not to exceed ten acres. A shellfish lease granted under this subsection is subject to the restrictions imposed on shellfish leases in G.S. 113-202, except the prohibition against leasing an area that contains a natural shellfish bed in G.S. 113-202(a)(2). This restriction is waived because, due to the cultivation efforts of the claimant, the area is likely to contain a natural shellfish bed.
- (b) In the event of any overlapping of areas leased by the Department, the Secretary shall recommend modification of the areas leased as he deems equitable to all parties. Appeal from the recommendation of the Secretary lies for either party in the same manner as for a lease applicant as to which there is a recommendation of denial or modification of lease. If there is no appeal, or upon settlement of the issue upon appeal, the modified leases must be approved by the Marine Fisheries Commission and reissued by the Secretary in the same manner as initial or renewal leases. Leaseholders must furnish the Secretary surveys of the modified leasehold areas, meeting the requisite criteria for surveys established by the Secretary.
- (c) In the event of any overlapping of areas leased by the Department and of areas in which title or conflicting private right of fishery is claimed and registered under the provisions of this Article, the Secretary must give preference to the leaseholder engaged in the production of oysters or clams in commercial quantities who received the lease with no notice of the existence of any claimed grant or right of fishery. To this end, the Secretary shall cause a modification of the claim registered with him and its accompanying survey to exclude the leasehold area. Such modification effected by the Secretary has the effect of voiding the grant of title or right of fishing to the extent indicated.
- (d) In the interest of conservation of the marine and estuarine resources of North Carolina, the Department may institute an action in the superior court to contest the claim of title or claimed right of fishery in any navigable waters of North Carolina registered with the Secretary. In such proceeding, the burden of showing title or right of fishery, by the preponderance of the evidence, shall be upon the claiming title or right holder. In the event the claiming title or right holder prevails, the trier of fact shall fix the monetary worth of the claim. The Department may elect to condemn the claim upon payment of the established owners or right holders their pro rata shares of the amount so fixed. The Department may make such payments from such funds as may be available to it. An appeal lies to the appellate division by either party both as to the validity of the claim and as to the fairness of the

amount fixed. The Department in such actions may be represented by the Attorney General. In determining the availability of funds to the Department to underwrite the costs of litigation or make condemnation payments, the use which the Department proposes to make of the area in question may be considered; such payments are to be deemed necessary expenses in the course of operations attending such use or of developing or attempting to develop the area in the proposed manner.

- (e) A person who claims that the application of G.S. 113-205 or this section has deprived him of his private property rights in land under navigable waters or his right of fishery in navigable waters without just compensation may file a complaint in the superior court of the county in which the property is located to contest the application of G.S. 113-205 or this section. If the plaintiff prevails, the trier of fact shall fix the monetary worth of the claim, and the Department may condemn the claim upon payment of this amount to him if the Secretary considers condemnation appropriate and necessary to conserve the marine and estuarine resources of the State. The Department may pay for a condemned claim from available funds. An action under this subsection is considered a condemnation action and is therefore subject to G.S. 7A-248.
- The limitation period for an action brought under this subsection is three years. This period is tolled during the disability of the plaintiff. No action, however, may be instituted under this subsection after December 31, 2006.
- (f) In evaluating claims registered pursuant to G.S. 113-205, the Secretary shall favor public ownership of submerged lands and public trust rights. The Secretary's action does not alter or affect in any way the rights of a claimant or the State. (1965, c. 957, s. 2; 1969, c. 44, s. 69; c. 541, s. 11; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1985, c. 279; c. 762; 1989, c. 423, s. 3; c. 727, s. 102; 1989 (Reg. Sess., 1990), c. 869, ss. 1, 2; 1993 (Reg. Sess., 1994), c. 717, ss. 1-3; 1998-179, s. 1; 2006-79, s. 11.)

**G.S. 113-207. Taking shellfish from certain areas forbidden; penalty.**

- (a),(b) Repealed by Session Laws 2009-433, s. 7, effective August 7, 2009.
- (c) It is unlawful for any person to take shellfish within 150 feet of any part of a publicly owned pier beneath which the Division of Marine Fisheries has deposited cultch material.
- (d) A person who violates this section is guilty of a Class 3 misdemeanor. (1977, c. 515, s. 1; c. 771, s. 4; 1989, c. 727, s. 103; 1993, c. 539, s. 841; 1994, Ex. Sess., c. 24, s. 14(c); 1999-143, s. 1; 2009-433, s. 7.)

**G.S. 113-208. Protection of private shellfish rights.**

- (a) It is unlawful for any person, other than the holder of private shellfish rights, to take or attempt to take shellfish from any privately leased, franchised, or deeded shellfish bottom area without written authorization of the holder and with actual knowledge it is a private shellfish bottom area. Actual knowledge will be presumed when the shellfish are taken or attempted to be taken:
- (1) From within the confines of posted boundaries of the area as identified by signs, whether the whole or any part of the area is posted, or
  - (2) When the area has been regularly posted and identified and the person knew the area to be the subject of private shellfish rights. A violation of this section shall constitute a Class A1 misdemeanor, which may include a fine of not more than five thousand dollars (\$5,000). The written authorization shall include the lease number or deed reference, name and address of authorized person, date of issuance, and date of expiration, and it must be signed by the holder of the private shellfish right. Identification signs shall include the lease number or deed reference and the name of the holder.
- (b) The prosecutor shall dismiss any case brought for a violation of this section if the defendant produces a notarized written authorization in conformance with subsection (a) which states that the defendant had permission to take oysters or clams from the leased area at the time of the alleged violation; except the prosecutor may refuse to dismiss the case if he has reason to believe that the written authorization is fraudulent. (1979, c. 537; 1987, c. 463; 1989, c. 281, s. 2; 1993, c. 539, s. 842; 1994, Ex. Sess., c. 24, s. 14(c); 1998-225, s. 3.7.)

**G.S. 113-209. Taking polluted shellfish at night or with prior conviction forbidden; penalty.**

- (a) It is unlawful for any person between sunset and sunrise to willfully take or attempt to take shellfish from areas closed to harvest by statute, rule, or proclamation because of suspected pollution.
- (b) It is unlawful for any person to willfully possess, sell or offer for sale shellfish taken between sunset and sunrise from areas closed to harvest by statute, rule, or proclamation because of suspected pollution.
- (c) It is unlawful for any person who has been convicted of an offense under this Chapter within the preceding two years involving shellfish taken from areas closed because of suspected pollution to willfully take, attempt to take, possess, sell or offer for sale shellfish from areas closed to harvest by statute, rule, or proclamation because of suspected pollution.
- (d) Any person violating any provisions of this section shall be guilty of a Class I felony which may include a fine no less than two thousand five hundred dollars (\$2,500). Upon conviction of any person for a violation of this section, the court shall order the confiscation of all weapons, equipment, vessels, vehicles, conveyances, fish, and

other evidence, fruit, and instrumentalities of the offense. The confiscated property shall be disposed of in accordance with G.S. 113-137. (1989, c. 275, s. 1; 1993, c. 539, s. 1301; 1994, Ex. Sess., c. 24, s.14(c).)

**G.S. 113-210. Under Dock Oyster Culture.**

- (a) Under Dock Oyster Culture Permit. – An Under Dock Oyster Culture Permit authorizes the holder of the permit to attach up to 90 square feet of oyster cultivation containers to a dock or pier owned by the permit holder.
- (b) Application. – The owner of a dock or pier who wishes to obtain an Under Dock Oyster Culture Permit shall apply to the Director of the Division of Marine Fisheries.
- (c) Issuance. – The Director of the Division of Marine Fisheries shall issue an Under Dock Oyster Culture Permit only if the Director determines all of the following:
  - (1) That the dock or pier is not located in an area that the State Health Director has recommended be closed to shellfish harvest due to pollution or that has been closed to harvest by statute, rule, or proclamation due to suspected pollution.
  - (2) That the owner of the dock or pier has satisfied the training requirements established by the Marine Fisheries Commission pursuant to subsection (j) of this section.
  - (3) That the attachment of the oyster cultivation containers to the dock or pier will be compatible with all lawful uses by the public of other marine and estuarine resources. Other lawful public uses include, but are not limited to, navigation, fishing, and recreation.
- (d) Duration. – An Under Dock Oyster Culture Permit is valid for a one-year period from the date of issuance.
- (e) Renewal. – The Director of the Division of Marine Fisheries shall renew an Under Dock Oyster Culture Permit only if the Director determines the requirements of subsection (c) of this section continue to be satisfied and the holder of the permit is attempting to utilize the permit to cultivate oysters on a continuing basis.
- (f) Reporting Requirements. – The holder of an Under Dock Oyster Culture Permit shall comply with the biological data sampling and survey programs of the Marine Fisheries Commission and the Division of Marine Fisheries.
- (g) Posting of Signs. – The holder of an Under Dock Oyster Culture Permit shall post signs that indicate the presence of the oyster cultivation containers and that the oyster cultivation containers and their contents are private property.
- (h) Sale of Oysters Prohibited. – It is unlawful for the holder of an Under Dock Oyster Culture Permit to sell oysters cultivated pursuant to the permit.
- (i) Assignment and Transfer Prohibited. – An Under Dock Oyster Culture Permit is not assignable or transferable.
- (j) Oyster Cultivation Training Requirements. – The Marine Fisheries Commission, in consultation with the Sea Grant College Program at The University of North Carolina, shall develop and adopt rules for the training of individuals who cultivate oysters pursuant to this section.
- (k) Revocation of Permit. – If the Director of the Division of Marine Fisheries determines that the holder of an Under Dock Oyster Culture Permit has failed to comply with any provision of this section, the Director shall revoke the Permit. The owner of the dock or pier shall remove the oyster cultivation containers that were authorized by the revoked permit within 15 days of revocation.
- (l) Repealed by Session Laws 2014-100, s. 14.9(h), effective July 1, 2014.
- (m) Repealed by Session Laws 2014-120, s. 33(a), effective July 1, 2014. (2004-124, s. 12.7B; 2013-360, s. 14.8(t); 2014-100, s. 14.9(h); 2014-120, s. 33(a).)

Article 16A.

Marine Aquaculture.

**G.S. 113-215. Definitions.**

In addition to the definitions in G.S. 113-128 and G.S. 113-129, the following definitions shall apply in this Article:

- (1) Marine aquaculture. - The propagation and rearing of marine aquatic species in controlled or selected environments, including, but not limited to, ocean ranching, marine hatcheries, and other deep water fish farming operations in the coastal fishing waters of the State and, to the extent not inconsistent with federal law, to the limits of the United States exclusive economic zone, as that term is defined in the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801, et seq.
- (2) Marine aquaculture lease. - A lease of the public bottom and superjacent water column granted by the Secretary for marine aquaculture.
- (3) Marine aquatic species. - Any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant, and including, but not limited to, "fish" and "fishes," as defined in G.S. 113-129(7), found exclusively or for part of its life cycle in coastal fishing waters. (2017-190, s. 1.)

**G.S. 113-216. Legislative findings and declaration of policy.**

The General Assembly finds that development of a marine aquaculture industry in the State provides increased seafood production and long-term economic and employment opportunities. The General Assembly declares that it is the policy of the State to encourage the development of private, commercial marine aquaculture in ways that are compatible with other public uses of marine and estuarine resources such as navigation, fishing, and recreation. (2017-190, s. 1.)

**G.S. 113-217. New leases for marine aquaculture.**

(a) To increase the use of suitable areas underlying coastal fishing waters for establishment of marine aquaculture, the Secretary may grant marine aquaculture leases under the terms of this section when the Secretary determines, in accordance with the Secretary's duty to conserve the marine and estuarine resources of the State, that the public interest will benefit from issuance of the lease. Suitable areas for marine aquaculture shall meet the following minimum standards:

- (1) The area leased must not contain a natural commercially significant shellfish bed.
- (2) The marine aquaculture operation in the leased area will not unreasonably interfere with lawful utilization by the public of other marine and estuarine resources. Other public uses which may be considered include, but are not limited to, navigation, fishing, and recreation.
- (3) The operation of a marine aquaculture operation in the leased area will not unreasonably interfere upon the rights of riparian owners.
- (4) The area leased must not include an area designated for inclusion in the Department's Shellfish Management Program.
- (5) The area leased must not include an area that the State Health Director has recommended be closed to shellfish harvest by reason of pollution.
- (6) The marine aquaculture operation would not unreasonably interfere with public access and use of waters of the State, taking into account the potential economic impact of the operation.
- (7) Aquaculture use of the leased area must not significantly impair navigation.
- (8) The leased area must not be within a navigation channel marked or maintained by a State or federal agency.
- (9) The leased area must not be within an area traditionally used and available for significant levels of fishing or hunting activities incompatible with the activities proposed by the leaseholder, such as trawling or seining.
- (10) Aquaculture use of the leased area must not significantly interfere with the exercise of riparian rights by adjacent property owners, including access to navigation channels from piers or other means of access.

(b) The Secretary may delete any part of an area proposed for lease or may condition a lease to protect the public interest with respect to the factors enumerated in subsection (a) of this section. The Secretary shall enter into memoranda of agreement with the United States Army Corps of Engineers or any other appropriate State or federal regulatory agencies to provide for appropriate standards and markings for marine aquaculture structures to avoid impairment of navigation.

(c) No person, including a corporate entity or single family unit, may acquire and hold by lease, lease renewal, or purchase more than 1,500 acres under marine aquaculture leases. No individual lease may exceed 100 acres. For purposes of this subsection, the number of acres of leases held by a person includes acres held by a corporation in which the person holds an interest.

(d) Any person desiring to apply for a lease must make written application to the Secretary on forms prepared by the Department containing such information as deemed necessary to determine the desirability of granting or not granting the lease requested. Except in the case of renewal leases, the application must be accompanied by a map or diagram made at the expense of the applicant, showing the area proposed to be leased.

(e) The map or diagram must conform to standards prescribed by the Secretary concerning accuracy of map or diagram and the amount of detail that must be shown. If, on the basis of the application information and map or diagram, the Secretary deems that granting the lease would benefit the marine aquaculture industry of North Carolina, the Secretary must order an investigation of the area proposed to be leased. The investigation is to be made by the Secretary or the Secretary's authorized agent to determine whether the area proposed to be leased is consistent with the standards in subsection (a) of this section. In the event the Secretary finds the application inconsistent with the applicable standards, the Secretary shall deny the application or propose that a conditional lease be issued that is consistent with the applicable standards. In the event the Secretary authorizes amendment of the application, the applicant must furnish a new map or diagram meeting requisite standards showing the area proposed to be leased under the amended application. At the time of making an application for an initial lease, the applicant must pay a filing fee of two hundred dollars (\$200.00).

(f) The area proposed to be leased must be as compact as possible, taking into consideration the shape of the body of water, the consistency of the bottom, and the desirability of separating the boundaries of a leasehold by a sufficient distance from any other marine aquaculture operations or shellfish leases.

(g) Within 60 days after receipt of an application that complies with subsection (e) of this section, the Secretary shall notify the applicant of the intended action on the lease application. If the intended action is approval of the application as submitted, or approval with a modification to which the applicant agrees, the Secretary shall conduct a public hearing

in the county where the proposed leasehold lies. The Secretary must publish at least two notices of the intention to lease in a newspaper of general circulation in the county in which the proposed leasehold lies. The first publication must precede the public hearing by more than 20 days; the second publication must follow the first by seven to 11 days. The notice of intention to lease must contain a description of the area of the proposed leasehold sufficient to establish its boundaries with reasonable ease and certainty and must also contain the date, hour, and place of the hearing.

(h) After consideration of the public comment received and any additional investigations the Secretary orders to evaluate the comments, the Secretary shall notify the applicant in person or by certified or registered mail of the decision on the lease application. The Secretary shall also notify persons who submitted comments at the public hearing and requested notice of the lease decision. An applicant who is dissatisfied with the Secretary's decision or another person aggrieved by the decision may commence a contested case by filing a petition under G.S. 150B-23 within 20 days after receiving notice of the Secretary's decision. In the event the Secretary's decision is a modification to which the applicant agrees, the lease applicant must furnish an amended map or diagram before the lease can be issued by the Secretary.

(i) After a lease application is approved by the Secretary, the applicant shall submit to the Secretary information sufficient to define the bounds of the area approved for leasing with markers in accordance with the rules of the Commission. The information shall conform to standards prescribed by the Secretary concerning accuracy of survey and the amount of detail to be shown. When information is submitted, the boundaries are marked and all fees and rents due in advance are paid, the Secretary shall execute the lease on forms approved by the Attorney General. The Secretary is authorized, with the approval of the lessee, to amend an existing lease by reducing the area under lease or by combining contiguous leases without increasing the total area leased.

(j) Initial leases begin upon the issuance of the lease by the Secretary and expire at noon on the first day of July following the twentieth anniversary of the granting of the lease. Renewal leases are issued for a period of 20 years from the time of expiration of the previous lease. At the time of making application for renewal of a lease, the applicant must pay a filing fee of one hundred dollars (\$100.00). The rental for initial leases and renewed leases is two hundred ten dollars (\$210.00) per acre, per year. Rental must be paid annually in advance prior to the first day of April each year. Upon initial granting of a lease, the pro rata amount for the portion of the year left until the first day of July must be paid in advance at the rate of two hundred ten dollars (\$210.00) per acre, per year; then, on or before the first day of April next, the lessee must pay the rental for the next full year.

(k) Except as otherwise restricted by this Article, leaseholds granted under this section are to be treated as if they were real property and are subject to all laws relating to taxation, sale, devise, inheritance, gift, seizure and sale under execution or other legal process, and the like. Leases properly acknowledged and probated are eligible for recordation in the same manner as instruments conveying an estate in real property. Within 30 days after transfer of beneficial ownership of all or any portion of or interest in a leasehold to another, the new owner must notify the Secretary of such fact. Such transfer is not valid until notice is furnished to the Secretary.

(l) Upon receipt of notice by the Secretary of any of the following occurrences, the Secretary must commence action to terminate the leasehold:

- (1) Failure to pay the annual rent in advance.
- (2) Failure to file information required by the Secretary upon annual remittance of rental or filing false information on the form required to accompany the annual remittance of rental.
- (3) Failure by new owner to report a transfer of beneficial ownership of all, or any portion of, or interest in the leasehold.
- (4) Failure to mark the boundaries in the leasehold and to keep them marked as required in the rules of the Marine Fisheries Commission.
- (5) Failure to utilize the leasehold on a continuing basis for marine aquaculture purposes, except if marine aquaculture activities under the lease are suspended as a part of a disease or biosecurity plan.

(m) In the event the leaseholder takes steps within 30 days to remedy the situation upon which the notice of intention to terminate was based, and the Secretary is satisfied that continuation of the lease is in the best interests of the shellfish culture of the State, the Secretary may discontinue termination procedures. Where there is no discontinuance of termination procedures, the leaseholder may initiate a contested case by filing a petition under G.S. 150B-23 within 30 days of receipt of notice of intention to terminate. Where the leaseholder does not initiate a contested case, or the final decision upholds termination, the Secretary must send a final letter of termination to the leaseholder. The final letter of termination may not be mailed sooner than 30 days after receipt by the leaseholder of the Secretary's notice of intention to terminate, or of the final agency decision, as appropriate. The lease is terminated effective at midnight on the day the final notice of termination is served on the leaseholder. The final notice of termination may not be issued pending hearing of a contested case initiated by the leaseholder.

Service of any notice required in this subsection may be accomplished by certified mail, return receipt requested; personal service by any law enforcement officer; or upon the failure of these two methods, publication. Service by publication shall be accomplished by publishing such notices in a newspaper of general circulation within the county where the lease is located for at least once a week for three successive weeks and by posting the notices on the Commission's Web site. The format for notice by publication shall be approved by the Attorney General.

(n) Upon final termination of any leasehold, the leased area in question is thrown open to the public for use in accordance with laws and rules governing use of public grounds generally. Within 30 days of final termination of the leasehold, the former leaseholder shall remove all abandoned markers denominating the area of the leasehold. The State may, after 10 days' notice to the owner of the abandoned markers thereof, remove the abandoned structure and have the area cleaned up. The cost of such removal and cleanup shall be payable by the owner of the abandoned markers and the State may bring suit to recover the costs thereof.

(o) Every year between January 1 and February 15, the Secretary must mail to all leaseholders a notice of the annual rental due and include forms designed by the Secretary for determining the amount of harvest gathered. Such forms may contain other pertinent questions relating to the utilization of the leasehold in the best interests of the aquaculture industry of the State and must be executed and returned by the leaseholder with the payment of the leaseholder's rental. Any leaseholder or the leaseholder's agent executing such forms for the leaseholder who knowingly makes a false statement on such forms is guilty of a Class 1 misdemeanor. (2017-190, s. 1.)

**G.S. 113-218. Protection of private marine aquaculture rights.**

It is unlawful for any person, other than the holder of a lease issued under this Article, to take or attempt to take marine species being produced under the license and associated lease from any privately leased, franchised, or deeded marine aquaculture operation without written authorization of the holder and with actual knowledge it is a marine aquaculture leased area. Actual knowledge will be presumed when the marine species are taken or attempted to be taken under the following circumstances:

- (1) From within the confines of posted boundaries of the area as identified by signs, whether the whole or any part of the area is posted; or
- (2) When the area has been regularly posted and identified and the person knew the area to be the subject of private marine aquaculture rights.

A violation of this subsection shall constitute a Class A1 misdemeanor, which may include a fine of not more than five thousand dollars (\$5,000). The written authorization shall include the lease number or deed reference, name and address of authorized person, date of issuance, and date of expiration, and it must be signed by the holder of the marine aquaculture rights. Identification signs shall include the lease number or deed reference and the name of the holder. (2017-190, s. 1.)

**G.S. 113-221. Rules.**

- (a) Chapter 150B of the General Statutes governs the adoption of rules under this Article.
- (b) Upon purchasing a license, each licensee shall be provided access to a copy of the rules concerning the activities authorized by the license. The copy may be in written or electronic form, including by file download over the Internet. A written copy of the rules shall be provided to a licensee upon request.
- (c) The Fisheries Director shall notify licensees of a new rule or change to a rule by sending each licensee either a newsletter containing the text of the rule or change or an updated codification of the rules of the Marine Fisheries Commission that contains the new rule or change. The Director may elect to use electronic means rather than mail to notify licensees if electronic means would be more timely and cost-effective. A written copy of any notification produced in accordance with this section shall be provided to a licensee upon request.
- (d) Unless there are overriding policy considerations involved, any rule of the Marine Fisheries Commission that will result in severe curtailment of the usefulness or value of equipment in which fishermen have any substantial investment shall be given a future effective date so as to minimize undue potential economic loss to fishermen. Whether or not any rule will result in severe curtailment of the usefulness or value of equipment in which fishermen have any substantial investment and whether or not a future effective date should be set is a matter within the sole discretion of the Marine Fisheries Commission. This subsection does not require the Marine Fisheries Commission to establish an effective date that is more than two years later than the date on which the rule is adopted.
- (e) Repealed by Session Laws 2003 -154, s. 1, effective July 1, 2003.
- (e1) Repealed by Session Laws 2003 -154, s. 1, effective July 1, 2003.
- (f) All persons who may be affected by rules adopted by the Marine Fisheries Commission are under a duty to keep themselves informed of the current rules. It is no defense in any criminal prosecution for the defendant to show that the defendant in fact received no notice of a particular rule. In any prosecution for violation of a rule, or in which proof of matter contained in a rule is involved, the Department is deemed to have complied with publication procedures and the burden is on the defendant to show by the greater weight of the evidence substantial failure of compliance by the Department with the required publication procedures.
- (g) Every court shall take judicial notice of any codification of rules issued by the Fisheries Director within two years preceding the date of the offense charged or transaction in issue. In the absence of any indication to the contrary, the codifications are to be deemed accurate and current statements of the text of the rules in question and it is incumbent upon any person asserting that a relevant portion of the codified text is inaccurate, or has been amended or deleted, to satisfy the court as to the text of the rules that is in fact properly applicable.

- (h) Repealed by Session Laws 1983, c. 221, s. 1. (1915, c. 84, s. 21; 1917, c. 290, s. 7; C.S., s. 1878; 1925, c. 168, s. 2; 1935, c. 35; 1945, c. 776; 1953, cc. 774, 1134, 1251; 1963, c. 1097, s. 1; 1965, c. 957, s. 2; 1973, c. 1262, ss. 28, 86; c. 1331, s. 3; 1975, 2nd Sess., c. 983, s. 70; 1979, c. 388, s. 6; 1983, cc. 221, 619, 620; 1987, c. 641, ss. 7, 19; c. 827, s. 7; 1997-400, s. 4.3; 1998-225, s. 3.8 ; 2000-189, s. 9; 2003-154, s. 1; 2014-100, s. 14.13.)

**G.S. 113-221.1. Proclamations; emergency review.**

- (a) Chapter 150B of the General Statutes does not apply to proclamations issued under this Article.
- (b) The Marine Fisheries Commission may delegate to the Fisheries Director the authority to issue proclamations suspending or implementing, in whole or in part, particular rules of the Commission that may be affected by variable conditions. These proclamations shall be issued by the Fisheries Director or by a person designated by the Fisheries Director. Except as provided in this subsection, all proclamations shall state the hour and date upon which they become effective and shall be issued at least 48 hours in advance of the effective date and time. A proclamation that prohibits the taking of certain fisheries resources for reasons of public health or that governs a quota -managed fishery may be made effective immediately upon issuance. A proclamation to reopen the taking of certain fisheries resources closed for reasons of public health shall be issued at least 12 hours in advance of the effective date and time of the reopening. A person who violates a proclamation that is made effective immediately upon issuance shall not be charged with a criminal offense for the violation if the violation occurred between the time of issuance and 48 hours after the issuance and the person did not have actual notice of the issuance of the proclamation. Fisheries resources taken or possessed by any person in violation of any proclamation may be seized regardless of whether the person had actual notice of the proclamation. A permanent file of the text of all proclamations shall be maintained in the office of the Fisheries Director. Certified copies of proclamations are entitled to judicial notice in any civil or criminal proceeding. The Fisheries Director shall make every reasonable effort to give actual notice of the terms of any proclamation to persons who may be affected by the proclamation. Reasonable effort includes a press release to communications media, posting of a notice at docks and other places where persons affected may gather, personal communication by inspectors and other agents of the Fisheries Director, and other measures designed to reach the persons who may be affected. It is a defense to an enforcement action for a violation of a proclamation that a person was prevented from receiving notice of the proclamation due to a natural disaster or other act of God occasioned exclusively by violence of nature without interference of any human agency and that could not have been prevented or avoided by the exercise of due care or foresight.
- (c) All persons who may be affected by proclamations issued by the Fisheries Director are under a duty to keep themselves informed of current proclamations. It is no defense in any criminal prosecution for the defendant to show that the defendant in fact received no notice of a particular proclamation. In any prosecution for violation of a proclamation, or in which proof of matter contained in a proclamation is involved, the Department is deemed to have complied with publication procedures; and the burden is on the defendant to show, by the greater weight of the evidence, substantial failure of compliance by the Department with the required publication procedures.
- (d) Pursuant to the request of five or more members of the Marine Fisheries Commission, the Chair of the Marine Fisheries Commission may call an emergency meeting of the Commission to review an issuance or proposed issuance of proclamations under the authority delegated to the Fisheries Director pursuant to subsection (b) of this section or to review the desirability of directing the Fisheries Director to issue a proclamation to prohibit or allow the taking of certain fisheries resources. At least 48 hours prior to any emergency meeting called pursuant to this subsection, a public announcement of the meeting shall be issued that describes the action requested by the members of the Marine Fisheries Commission. The Department shall make every reasonable effort to give actual notice of the meeting to persons who may be affected. After its review is complete, the Marine Fisheries Commission, consistent with its duty to protect, preserve, and enhance the commercial and sports fisheries resources of the State, may approve, cancel, or modify the previously issued or proposed proclamation under review or may direct the Fisheries Director to issue a proclamation that prohibits or allows the taking of certain fisheries resources. An emergency meeting called pursuant to this subsection and any resulting orders issued by the Marine Fisheries Commission are exempt from the provisions of Article 2A of Chapter 150B of the General Statutes. The decisions of the Marine Fisheries Commission shall be the final decision of the State and shall not be set aside on judicial review unless found to be arbitrary and capricious. (1915, c. 84, s. 21; 1917, c. 290, s. 7; C.S., s. 1878; 1925, c. 168, s. 2; 1935, c. 35; 1945, c. 776; 1953, cc. 774, 1134, 1251; 1963, c. 1097, s. 1; 1965, c. 957, s. 2; 1973, c. 1262, ss. 28, 86; c. 1331, s. 3; 1975, 2nd Sess., c. 983, s. 70; 1979, c. 388, s. 6; 1983, cc. 221, 619, 620; 1987, c. 641, ss. 7, 19; c. 827, s. 7; 1997-400, s. 4.3; 1998-225, s. 3.8; 2000-189, s. 9; 2003-154, s. 2.)

**G.S. 113-221.2. Additional rules to establish sanitation requirements for scallops, shellfish, and crustacea; permits and permit fees authorized.**

- (a) Authority to Adopt Certain Rules and Establish Permits. – For the protection of the public health, the Marine Fisheries Commission shall adopt rules establishing sanitation requirements for the harvesting, processing and handling of scallops, shellfish, and crustacea of in-State origin. The rules of the Marine Fisheries Commission may also regulate scallops, shellfish, and crustacea shipped into North Carolina. The Department is authorized to

enforce the rules and may issue and revoke permits according to the rules. The Department is authorized to establish a fee for each permit not to exceed one hundred dollars (\$100.00).

- (b) Advance Sale of Permits; Permit Revenue. – To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid. (1965, c. 783, s. 1; 1967, c. 1005, s. 1; 1973, c. 476, s. 128; 1983, c. 891, s. 2; 2011-145, s. 13.3(ppp), (qqq); 2013-360, s. 14.8(u).)

**G.S. 113-221.3. Monitoring program for State coastal fishing and recreation waters; removal or destruction of warning signs.**

- (a) For the protection of the public health of swimmers and others who use the State's coastal fishing waters for recreational activities, the Department shall develop and implement a program to monitor the State's coastal fishing waters for contaminants. The monitoring program shall cover all coastal fishing waters up to the point where those waters are classified as inland fishing waters.
- (b) The Marine Fisheries Commission shall adopt rules to provide for a water quality monitoring program for the coastal recreation waters of the State and to allow the Department to implement the federal Beaches Environmental Assessment and Coastal Health Act of 2000 (Pub. L. No. 106-284; 114 Stat. 870, 875; 33 U.S.C. §§ 1313, 1362). The rules shall address, but are not limited to, definitions, surveys, sampling, action standards, and posting of information on the water quality of coastal recreation waters.
- (c) No person shall remove, destroy, damage, deface, mutilate, or otherwise interfere with any sign posted by the Department pursuant to subsection (b) of this section. No person, without just cause or excuse, shall have in his or her possession any sign posted by the Department pursuant to subsection (b) of this section. Any person who violates this section is guilty of a Class 2 misdemeanor.
- (d) As used in this section, coastal recreation waters has the same meaning as in 33 U.S.C. § 1362. (1997-443, s. 15.17(a); 2003-149, s. 1; 2011-145, s. 13.3(rrr), (sss).)

**G.S. 113-221.4. Embargo.**

(a) If the Secretary of Environmental Quality or a local health director has probable cause to believe that any scallops, shellfish, or crustacea is adulterated or misbranded, the Secretary of Environmental Quality or a local health director may detain or embargo the article by affixing a tag to it and warning all persons not to remove or dispose of the article until permission for removal or disposal is given by the official by whom it was detained or embargoed or by the court. It shall be unlawful for any person to remove or dispose of the detained or embargoed article without that permission.

(b) The official by whom the scallops, shellfish, or crustacea was detained or embargoed shall petition a judge of the district or superior court in whose jurisdiction the article is detained or embargoed for an order for condemnation of the article. If the court finds that the article is adulterated or misbranded, that article shall be destroyed under the supervision of the petitioner. All court costs and fees, storage and other expense shall be taxed against the claimant of the article. If, the article, by proper labelling can be properly branded, the court, after the payment of all costs, fees, expenses, and an adequate bond, may order that the article be delivered to the claimant for proper labelling under the supervision of the petitioner. The bond shall be returned to the claimant after the petitioner represents to the court that the article is no longer mislabelled and that the expenses of supervision have been paid. (1983, c. 891, s. 2; 1997-261, s. 109; 1997-443, s. 11A.63A; 2006-80, s. 1; 2007-7, s. 1; 2011-145, ss. 13.3(tt), (uuu); 2015-241, s. 14.30(v).)

**G.S. 113-221.5. Right of entry to enforce certain sanitation requirements.**

The Secretary of Environmental Quality and a local health director shall each have the delegable right of entry upon the premises of any place where entry is necessary to enforce the provisions of G.S. 113-221.2(a) or the rules adopted by the Marine Fisheries Commission or a local board of health. If consent for entry is not obtained, an administrative search and inspection warrant shall be obtained pursuant to G.S. 15-27.2. However, if an imminent hazard exists, no warrant is required for entry upon the premises. (2016-94, s. 14.15.)

**G.S. 113-223. Reciprocal agreements by Department generally.**

Subject to the specific provisions of G.S. 113-169.5 and G.S. 113-170.1 relating to reciprocal provisions as to landing and selling catch and as to licenses, the Department is empowered to make reciprocal agreements with other jurisdictions respecting any of the matters governed in this Subchapter. Pursuant to such agreements the Department may modify provisions of this Subchapter in order to effectuate the purposes of such agreements, in the overall best interests of the conservation of marine and estuarine resources. (1915, c. 84, s. 5; 1917, c. 290, s. 10; C.S., s. 1883; 1953, c. 1086; 1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1989, c. 727, s. 104; 1998-225, s. 4.22.)

**G.S. 113-224. Cooperative agreements by Department.**

(a) Except as otherwise provided in this section, the Department is empowered to enter into cooperative agreements with public and private agencies and individuals respecting the matters governed in this Subchapter. Pursuant to such agreements the Department may expend funds, assign employees to additional duties within or without the State, assume additional responsibilities, and take other actions that may be required by virtue of such agreements, in the overall best interests of the conservation of marine and estuarine resources.

(b) The Fisheries Director or a designee of the Fisheries Director shall not enter into an agreement with the National Marine Fisheries Service of the United States Department of Commerce allowing Division of Marine Fisheries inspectors to accept delegation of law enforcement powers over matters within the jurisdiction of the National Marine Fisheries Service. (1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1989, c. 727, s. 105; 2014-100, s. 14.11(a); 2015-201, s. 3(a).)

**G.S. 113-228. Adoption of federal regulations.**

To the extent that the Department is granted authority in this Subchapter over subject matter as to which there is concurrent federal jurisdiction, the Marine Fisheries Commission in its discretion may by reference in its rules adopt relevant provisions of federal laws and regulations as State rules. To prevent confusion or conflict of jurisdiction in enforcement, the Marine Fisheries Commission is exempt from any conflicting limitations in G.S. 150B-21.6 so that it may provide for automatic incorporation by reference into its rules of future changes within any particular set of federal laws or regulations relating to some subject clearly within the jurisdiction of the Department. (1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1987, c. 641, s. 11; c. 827, s. 104; 1991 (Reg. Sess., 1992), c. 890, s. 7.)

**G.S. 113-252. Atlantic States Marine Fisheries Compact and Commission.**

The Governor of this State is hereby authorized and directed to execute a compact on behalf of the State of North Carolina with any one or more of the states of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, South Carolina, Georgia, and Florida and with such other states as may enter into the compact, legally joining therein in the form substantially as follows:

ATLANTIC STATES MARINE FISHERIES COMPACT

The contracting states solemnly agree:

Article I

The purpose of this Compact is to promote the better utilization of the fisheries, marine, shell and anadromous, of the Atlantic seaboard by the development of a joint program for the promotion and protection of such fisheries, and by the prevention of the physical waste of the fisheries from any cause. It is not the purpose of this Compact to authorize the states joining herein to limit the production of fish or fish products for the purpose of establishing or fixing the price thereof, or creating and perpetuating monopoly.

Article II

This agreement shall become operative immediately as to those states executing it whenever any two or more of the states of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, South Carolina, North Carolina, Georgia and Florida have executed it in the form that is in accordance with the laws of the executing state and the Congress has given its consent. Any state contiguous with any of the aforementioned states and riparian upon waters frequented by anadromous fish, flowing into waters under the jurisdiction of any of the aforementioned states, may become a party hereto as hereinafter provided.

Article III

Each state joining herein shall appoint three representatives to a commission hereby constituted and designated as the Atlantic States Marine Fisheries Commission. One shall be the executive officer of the administrative agency of the state charged with the conservation of the fisheries resources to which this compact pertains. The second shall be a member of the legislature appointed by the Governor. The third shall be a citizen who has knowledge of and interest in marine fisheries issues, appointed by the Governor. This Commission shall be a body corporate, with the powers and duties set forth herein.

Article IV

The duty of the said Commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about the conservation and the prevention of the depletion

and physical waste of the fisheries, marine, shell and anadromous, of the Atlantic seaboard. The Commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their respective jurisdictions to promote the preservation of those fisheries and their protection against overfishing, waste, depletion or any abuse whatsoever and to assure a continuing yield from the fisheries resources of the aforementioned states.

To that end the Commission shall draft and, after consultation with the advisory committee hereinafter authorized, recommend to the governors and legislatures of the various signatory states legislation dealing with the conservation of the marine, shell and anadromous fisheries of the Atlantic seaboard. The Commission shall more than one month prior to any regular meeting of the legislature in any signatory state, present to the governor of the state its recommendations relating to enactments to be made by the legislature of that state in furthering the intents and purposes of this Compact.

The Commission shall consult with and advise the pertinent administrative agencies in the states party hereto with regard to problems connected with the fisheries and recommend the adoption of such regulations as it deems advisable.

The Commission shall have power to recommend to the states party hereto the stocking of the waters of such states with fish and fish eggs, or joint stocking by some or all of the states party hereto, and when two or more of the states shall jointly stock waters the Commission shall act as the coordinating agency for such stocking.

#### Article V

The Commission shall elect from its number a chairman and a vice-chairman and shall appoint and at its pleasure remove or discharge such officers and employees as may be required to carry the provisions of this Compact into effect, and shall fix and determine their duties, qualifications and compensation. Said Commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place but must meet at least once a year.

#### Article VI

No action shall be taken by the Commission in regard to its general affairs except by the affirmative vote of a majority of the whole number of compacting states present at any meeting. No recommendation shall be made by the Commission in regard to any species of fish except by the affirmative vote of a majority of the compacting states which have an interest in such species. The Commission shall define what shall be an interest.

#### Article VII

The Fish and Wildlife Service of the Department of the Interior of the government of the United States shall act as the primary research agency of the Atlantic States Marine Fisheries Commission, cooperating with the research agencies in each state for that purpose. Representatives of the said Fish and Wildlife Service shall attend the meetings of the Commission.

An advisory committee to be representative of the commercial fishermen and the saltwater anglers and such other interests of each state as the Commission deems advisable shall be established by the Commission as soon as practicable for the purpose of advising the Commission upon such recommendations as it may desire to make.

#### Article VIII

When any state other than those named specifically in Article II of this Compact shall become a party thereto for the purpose of conserving its anadromous fish in accordance with the provisions of Article II the participation of such state in the action of the Commission shall be limited to such species of anadromous fish.

#### Article IX

Nothing in this Compact shall be construed to limit the powers of any signatory state or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any signatory state imposing additional conditions and restrictions to conserve its fisheries.

#### Article X

Continued absence of representation or of any representative on the Commission from any state party hereto shall be brought to the attention of the governor thereof.

Article XI

The states party hereto agree to make annual appropriations to the support of the Commission in proportion to the primary market value of the products of their fisheries, exclusive of cod and haddock, as recorded in the most recently published reports of the Fish and Wildlife Service of the United States Department of the Interior, provided no state shall contribute less than two hundred dollars (\$200.00) per annum and the annual contribution of each state above the minimum shall be figured to the nearest one hundred dollars (\$100.00).

The compacting states agree to appropriate initially the annual amounts scheduled below, which amounts are calculated in the manner set forth herein, on the basis of the catch record of 1938. Subsequent budgets shall be recommended by a majority of the Commission and the cost thereof allocated equitably among the states in accordance with their respective interests and submitted to the compacting states.

Schedule of Initial Annual State Contributions

Maine	\$ 700
New Hampshire .....	200
Massachusetts .....	2300
Rhode Island .....	300
Connecticut .....	400
New York .....	1300
New Jersey .....	800
Delaware .....	200
Maryland .....	700
Virginia .....	1300
North Carolina .....	600
South Carolina .....	200
Georgia .....	200
Florida .....	1500

Article XII

This Compact shall continue in force and remain binding upon each compacting state until renounced by it. Renunciation of this Compact must be preceded by sending six months' notice in writing of intention to withdraw from the Compact to the other states party hereto. (1949, c. 1086, s. 1; 1965, c. 957, s. 18; 2003-92, s. 3.)

**G.S. 113-259. North Carolina members of the South Atlantic Fishery Management Council.**

(a) In pursuance of Section 302 of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801, et seq., there shall be at least two members of the South Atlantic Fishery Management Council from the State of North Carolina.

(b) The first Council member shall be the principal State official with marine fishery management responsibility and expertise in the State, which official is the Director of the Division of Marine Fisheries of the Department or his designee.

(c) Pursuant to the enabling legislation, other members from the state of North Carolina are selected by the United States Secretary of Commerce from a list of qualified individuals submitted by the Governor of the State. The list of nominees shall be compiled by the Marine Fisheries Commission and must be comprised of individuals who are knowledgeable and experienced with regard to the management, conservation, or commercial or recreational harvest of the fishery resources in the Atlantic Ocean seaward of the states of North Carolina, South Carolina, Georgia, and Florida. Prior to submission of the list of nominees, the Governor may consult with the Commission regarding additions to the list of nominees to be submitted. Should it be necessary for the Governor to submit additional nominees, the list of nominees shall be compiled by the Marine Fisheries Commission. (1987, c. 641, s. 18; 1989, c. 727, s. 111; 1998-225, s. 4.23.)

**G.S. 113-260. North Carolina members of the Mid-Atlantic Fishery Management Council.**

(a) In pursuance of Section 302 of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801, et seq., there shall be at least two members of the Mid-Atlantic Fishery Management Council from the State of North Carolina.

(b) The first Council member shall be the principal State official with marine fishery management responsibility and expertise in the State, which official is the Director of the Division of Marine Fisheries of the Department or his designee.

(c) Pursuant to the enabling legislation, other members from the State of North Carolina are selected by the United States Secretary of Commerce from a list of qualified individuals submitted by the Governor of the State. The list of

nominees shall be compiled by the Marine Fisheries Commission and must be comprised of individuals who are knowledgeable and experienced with regard to the management, conservation, or commercial or recreational harvest of the fishery resources in the Atlantic Ocean seaward of the states of New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, and North Carolina. Prior to submission of the list of nominees, the Governor may consult with the Commission regarding additions to the list of nominees to be submitted. Should it be necessary for the Governor to submit additional nominees, the list of nominees shall be compiled by the Marine Fisheries Commission. (1998-225, s. 4.23.)

**G.S. 113-261. Taking fish and wildlife for scientific purposes; permits to take in normally unauthorized manner; cultural and scientific operations.**

- (a) The Department, the Wildlife Resources Commission, and agencies of the United States with jurisdiction over fish and wildlife are hereby granted the right to take marine, estuarine, and wildlife resources within the State, to conduct fish cultural operations and scientific investigations in the several waters of North Carolina, to survey fish and wildlife populations in the State, to conduct investigations to determine the status and requirements for survival of resident species of fish and wildlife, to propagate animals, birds, and fish, and to erect fish hatcheries and fish propagating plants without regard to any licensing or permit requirements of this Subchapter.
- (b) The Department with respect to fish in coastal fishing waters and the Wildlife Resources Commission with respect to wildlife may provide for the issuance of permits, on such terms as they deem just and in the best interest of conservation, authorizing persons to take such fish or wildlife through the use of drugs, poisons, explosives, electricity, or any other generally prohibited manner. Such permits need not be restricted solely to victims of depredations or to scientific or educational institutions, but should be issued only for good cause. No permit to take wildlife other than fish by means of poison may be issued, however, unless the provisions of Article 22A are met.
- (c) The Department, the Wildlife Resources Commission, and agencies of the United States with jurisdiction over fish and wildlife may, as necessary in their legitimate operations, take fish and wildlife in a manner generally prohibited by this Subchapter or by rules made under the authority of this Subchapter. (1915, c. 84, s. 7; C.S., s. 1886; 1965, c. 957, s. 2; 1973, c. 1262, s. 18; 1979, c. 830, s. 1; 1987, c. 827, s. 98.)

**G.S. 113-262. Taking fish or wildlife by poisons, drugs, explosives or electricity prohibited; exceptions; possession of illegally killed fish or wildlife prohibited.**

- (a) Except as otherwise provided in this Subchapter, or in rules permitting use of electricity to take certain fish, it is a Class 2 misdemeanor to take any fish or wildlife through the use of poisons, drugs, explosives, or electricity. This subsection does not apply to any person lawfully using any poison or pesticide under the Structural Pest Control Act of North Carolina of 1955, as amended, or the North Carolina Pesticide Law of 1971, as amended.
- (b) Except under a valid permit it is unlawful to possess any fish or wildlife:
  - (1) Bearing evidence of having been taken in violation of subsection (a); or
  - (2) With knowledge or reason to believe that the fish or wildlife was taken in violation of subsection (a). (1883, c. 290; Code, s. 1094; Rev., s. 3417; C.S., ss. 1968, 2124; 1927, c. 107; 1935, c. 486, ss. 18-20; 1939, c. 235, s. 1; 1949, c. 1205, ss. 2, 3; 1953, c. 1134; 1955, c. 104; c. 1053, ss. 1, 3, 4; 1957, c. 1056; 1959, c. 207; c. 500; 1961, c. 1182; 1963, c. 381; c. 697, ss. 1, 3 1/2; 1965, c. 904, s. 1; c. 957, s. 2; 1967, c. 728, s. 1; c. 858, s. 1; c. 1149, s. 1.5; 1969, c. 75; c. 140; 1971, c. 439, ss. 1-3; c. 449, s. 1; c. 461; c. 648, s. 1; c. 899, s. 1; 1973, c. 1096; c. 1210, ss. 1-3, 5; c. 1262, s. 18; 1975, c. 669; c. 728; 1977, c. 493; c. 794, s. 4; 1979, c. 830, s. 1; 1987, c. 827, s. 98; 1993, c. 539, s. 846; 1994, Ex. Sess., c. 24, s. 14(c).)

**G.S. 113-264. Regulatory power over agency property; public hunting opportunities; scheduling of managed hunts.**

(a) The Department and the Wildlife Resources Commission are granted the power by rule to license, regulate, prohibit, or restrict the public as to use and enjoyment of, or harm to, any property of the Department or the Wildlife Resources Commission, and may charge the public reasonable fees for access to or use of such property. "Property" as the word is used in this section is intended to be broadly interpreted and includes lands, buildings, vessels, vehicles, equipment, markers, stakes, buoys, posted signs and other notices, trees and shrubs and artificial constructions in boating and fishing access areas, game lands, wildlife refuges, public waters, public mountain trout waters, and all other real and personal property owned, leased, controlled, or cooperatively managed by either the Department or the Wildlife Resources Commission.

(a1) Every wildlife protector and every law enforcement officer of this State and its subdivisions shall have the authority within his or her established jurisdiction to enforce the rules promulgated pursuant to the power granted by this section regarding the willful removal of, damage to, or destruction of any property of the Department or the Wildlife Resources Commission.

(a2) To the extent that subsection (a1) of this section conflicts with any provision of any local act, subsection (a1) of this section prevails.

(b) Unless a different level of punishment is elsewhere set out, willful removal of, damage to, or destruction of any property of the Department or the Wildlife Resources Commission is a Class 1 misdemeanor.

(c) The Wildlife Resources Commission may cooperate with private landowners in the establishment of public hunting grounds. It may provide for the posting of these areas and of restricted zones within them, require that authorized hunters obtain written permission from the owner to hunt, enforce general laws concerning trespass by hunters and concerning damage or injurious activities by hunters and by others carrying weapons on or discharging weapons across public hunting grounds or restricted zones.

(d) The Wildlife Resources Commission may schedule managed hunting opportunities for any species of wildlife administered through permits. Permit recipients shall be selected at random by computer. The Wildlife Resources Commission may require by rule that an applicant 16 years of age or older have the required hunting license before the drawing for the hunt, and that an applicant less than 16 years of age apply as a member of a party that includes a properly licensed adult if the young applicant does not have the proper hunting license. When licenses are required prior to the drawing, all applications shall be screened for compliance. A nonrefundable fee of eight dollars (\$8.00) will be required of each applicant.

(d1) For applications sold directly through the Wildlife Resources Commission by telephone, mail, online, or at a service counter, the Wildlife Resources Commission may charge a fee of two dollars (\$2.00) per transaction.

(e) A wildlife protector or law enforcement officer of this State or its subdivisions may have a vehicle towed at a Commission-owned or operated public boating access area if the vehicle:

- (1) Is parked in an area other than one designated for parking; or
- (2) Is left by an individual for a purpose other than launching, operating, or retrieving a vessel. (1965, c. 957, s. 2; 1973, c. 1262, ss. 18, 28; 1977, c. 771, s. 4; 1979, c. 830, s. 1; 1983, c. 403; 1985 (Reg. Sess., 1986), c. 996, s. 2; 1987, c. 827, s. 98; 1989, c. 221; c. 642, s. 1; 1993, c. 539, s. 847; 1994, Ex. Sess., c. 24, s. 14(c); 2005-82, s. 1; 2005-164, s. 2; 2018-90, s. 1.)

**G.S. 113-265. Obstructing or polluting flow of water into hatchery; throwing fish offal into waters.**

- (a) No person may obstruct, pollute, or diminish the natural flow of water into or through any fish hatchery in violation of the requirements of the Environmental Management Commission.
- (b) It is unlawful for any person to throw or cause to be thrown into the channel of any navigable waters fish offal in any quantity likely to hinder or prevent the passage of fish along such channel. The Marine Fisheries Commission and the Wildlife Resources Commission may by rule impose further restrictions upon the throwing of fish offal in any coastal fishing waters or inland fishing waters respectively.
- (c) to (e) Repealed by Session Laws 1987, c. 636, s. 2. (1883, c. 137, s. 5; Code, ss. 3385, 3386, 3389, 3407, 3418; Rev., ss. 2444, 2465, 2478; C.S., ss. 1969, 1971, 1972; 1959, c. 405; 1965, c. 957, s. 2; 1971, c. 690, s. 4; 1973, c. 1262, ss. 18, 28; 1985 (Reg. Sess., 1986), c. 996, s. 3; 1987, c. 636, s. 2, c. 827, s. 98.)

**G.S. 113-266. Interference with artificial reef marking devices.**

It shall be a Class 1 misdemeanor for any person to destroy, injure, relocate, or remove any navigational aids, buoys, markers, or other devices lawfully set out by the Division of Marine Fisheries in connection with the marking of any artificial reef in the coastal waters of the State and in the Atlantic Ocean to the seaward extent of the State's jurisdiction as now or hereafter defined. (1985 (Reg. Sess., 1986), c. 996, s. 1; 1993, c. 539, s. 848; 1994, Ex. Sess., c. 24, s. 14(c).)

**G.S. 113-267. Replacement costs of marine, estuarine, and wildlife resources; rules authorized; prima facie evidence.**

To provide information to the courts and other officials taking action under G.S. 15A-1343(b1)(5), under G.S. 143-215.3(a)(7), or under any other pertinent authority of law, the Marine Fisheries Commission and the Wildlife Resources Commission are authorized to adopt rules setting forth the factors that should be considered in determining the replacement costs of fish and wildlife and other marine, estuarine, and wildlife resources that have been taken, injured, removed, harmfully altered, damaged, or destroyed. The Marine Fisheries Commission and the Wildlife Resources Commission may make similar rules respecting costs of investigations required by G.S. 143-215.3(a)(7) or which are made pursuant to a court order. For common offenses resulting in the destruction of marine, estuarine, and wildlife resources the Marine Fisheries Commission and the Wildlife Resources Commission may adopt schedules of costs which reasonably state the likely replacement costs and necessary investigative costs when appropriate. Rules of the Marine Fisheries Commission and the Wildlife Resources Commission stating scheduled costs or cost factors must be treated as prima facie evidence of the actual costs, but do not prevent a court or jury from examining the reasonableness of the rules or from assessing the special factors in a case which may make the true costs either higher or lower than the amount stated in the rules. The term "replacement costs" must be broadly construed to include indirect costs of replacement through habitat improvement or restoration, establishment of sanctuaries, and other recognized conservation techniques when direct stocking or replacement is not feasible. (1979, c. 830, s. 1; 1985, c. 509, s. 7; 1987, c. 827, s. 98.)

**G.S. 113-268. Injuring, destroying, stealing, or stealing from nets, seines, buoys, pots, etc.**

- (a) It is unlawful for any person without the authority of the owner of the equipment to take fish from nets, traps, pots, and other devices to catch fish which have been lawfully placed in the open waters of the State.

- (b) It is unlawful for any master or other person having the management or control of a vessel in the navigable waters of the State to willfully, wantonly, and unnecessarily do injury to any seine, net or pot which may lawfully be hauled, set, or fixed in such waters for the purpose of taking fish except that a net set across a channel may be temporarily moved to accommodate persons engaged in drift netting, provided that no fish are removed and no damage is done to the net moved.
- (c) It is unlawful for any person to willfully steal, destroy, or injure any buoys, markers, stakes, nets, pots, or other devices on property lawfully set out in the open waters of the State in connection with any fishing or fishery.
- (d) Violation of subsections (a), (b), or (c) is a Class A1 misdemeanor.
- (e) The Department may, either before or after the institution of any other action or proceeding authorized by this section, institute a civil action for injunctive relief to restrain a violation or threatened violation of subsections (a), (b), or (c) of this section pursuant to G.S. 113-131. The action shall be brought in the superior court of the county in which the violation or threatened violation is occurring or about to occur and shall be in the name of the State upon the relation of the Secretary. The court, in issuing any final order in any action brought pursuant to this subsection may, in its discretion, award costs of litigation including reasonable attorney and expert-witness fees to any party. (1987, c. 636, s. 1; 1989, c. 727, s. 112; 1993, c. 539, s. 849; 1994, Ex. Sess., c. 24, s. 14(c); 1998-225, s. 3.9.)

**G.S. 113-269. Robbing or injuring hatcheries and other aquaculture operations.**

- (a) The definitions established in G.S. 106-758 are incorporated by reference into this section. For the purposes of this section, a shellfish lease issued pursuant to G.S. 113-202 is defined as an aquaculture facility only when it has been amended pursuant to G.S. 113-202.1 to authorize use of the water column and when it is or has been regularly posted and identified in accordance with the rules of the Marine Fisheries Commission.
- (b) It is unlawful for any person without the authority of the owner of an aquaculture facility to take fish or aquatic species being cultivated or reared by the owner from an aquaculture facility.
- (c) It is unlawful for any person to receive or possess fish or aquatic species stolen from an aquaculture facility while knowing or having reasonable grounds to believe that the fish or aquatic species are stolen.
- (d) It is unlawful for any person to willfully destroy or injure an aquaculture facility or aquatic species being reared in an aquaculture facility.
- (e) Violation of subsections (b) or (c) for fish or aquatic species valued at more than four hundred dollars (\$400.00) is punishable under G.S. 14-72. Violation of subsections (b) or (c) for fish or aquatic species valued at four hundred dollars (\$400.00) or less is a Class 1 misdemeanor.
- (f) Violation of subsection (d) is a Class 1 misdemeanor.
- (g) In deciding to impose any sentence other than an active prison sentence, the sentencing judge shall consider and may require, in accordance with G.S. 15A-1343, restitution to the victim for the amount of damage to the aquaculture facility or aquatic species or for the value of the stolen fish or aquatic species.
- (h) The district attorney shall dismiss any case brought pursuant to subsections (b) and (c) if defendant produces a notarized written authorization for taking fish or aquatic species from the aquaculture facility or if the fish or aquatic species taken from a shellfish lease aquaculture facility was not a shellfish authorized for cultivation on the lease. (1989, c. 281, s. 1; 1993, c. 539, ss. 850, 851; 1994, Ex. Sess., c. 24, s. 14(c).)

**G.S. 113-276. Exemptions and exceptions to license and permit requirements.**

- (a), (b) Repealed by Session Laws 1979, c. 830, s. 1.
- (c) Except as otherwise provided in this Subchapter, every landholder, his spouse, and dependents under 18 years of age residing with him may take wildlife upon the land held by the landholder without any license required by G.S. 113-270.1B or G.S. 113-270.3(a), except that such persons are not exempt from the American alligator licenses established in G.S. 113-270.3(b)(6) and G.S. 113-270.3(b)(7), elk licenses established in G.S. 113-270.3(b)(8) and G.S. 113-270.3(b)(9), bear management stamp established in G.S. 113-270.3(b)(1b), and the falconry license described in G.S. 113-270.3(b)(4).
- (d) Except as otherwise provided in this Subchapter, individuals under 16 years of age are exempt from the hunting and trapping license requirements of G.S. 113-270.1B(a) and G.S. 113-270.3, except that such individuals are not exempt from the American alligator licenses established in G.S. 113-270.3(b)(6) and G.S. 113-270.3(b)(7), elk licenses established in G.S. 113-270.3(b)(8) and G.S. 113-270.3(b)(9), and the falconry license described in G.S. 113-270.3(b)(4). Individuals under 16 may hunt under this exemption, provided that the hunter is accompanied by an adult of at least 18 years of age who is licensed to hunt in this State. For purposes of this section, "accompanied" means that the licensed adult maintains a proximity that enables the adult to monitor the activities of the hunter by remaining within sight and hearing distance at all times without use of electronic devices. Upon successfully obtaining the hunter education certificate of competency required by G.S. 113-270.1A(a), a hunter may hunt under the license exemption until age 16 without adult accompaniment. Individuals under 16 years of age are exempt from the fishing license requirements of G.S. 113-270.1B(a), 113-272, and 113-271.
- (e) Repealed by Session Laws 2005-455, s. 1.11.
- (f) A special device license is not required when a landing net is used:

- (1) To take nongame fish in inland fishing waters; or
- (2) To assist in taking fish in inland fishing waters when the initial and primary method of taking is by the use of hook and line - so long as applicable hook-and-line fishing-license requirements are met.

As used in this subsection, a "landing net" is a net with a handle not exceeding eight feet in length and with a hoop or frame to which the net is attached not exceeding 60 inches along its outer perimeter.

(g) Bow nets covered by a special device license may be used in waters and during the seasons authorized in the rules of the Wildlife Resources Commission by an individual other than the licensee with the permission of the licensee. The individual using another's bow net must also secure the net owner's special device license and keep it on or about his person while fishing in inland fishing waters.

(h) Repealed by Session Laws 1979, c. 830, s. 1.

(i) A food server may prepare edible wildlife lawfully taken and possessed by a patron for serving to the patron and any guest he may have. The Executive Director may provide for the keeping of records by the food server necessary for administrative control and supervision with respect to wildlife brought in by patrons.

(j) A migrant farm worker who has in his possession a temporary certification of his status as such by the Rural Employment Service of the Division of Employment Security on a form provided by the Wildlife Resources Commission is entitled to the privileges of a resident of the State and of the county indicated on such certification during the term thereof for the purposes of purchasing and using the resident fishing licenses provided by G.S. 113-271(d)(2), (4), and (6)a.

(k) Box-trapped rabbits may be released for the purpose of training dogs on an area of private land which is completely enclosed with a metal fence through which rabbits may not escape or enter at any time. The Wildlife Resources Commission may establish rules to set standards for areas on which rabbits are released. A person may participate in a field trial for beagles without a hunting license if approved in advance by the Executive Director, conducted without the use or possession of firearms, and on an area of not more than 100 acres of private land which is completely and permanently enclosed with a metal fence through which rabbits may not escape or enter at any time.

(l) The fishing license provisions of this Article do not apply upon the lands held in trust by the United States for the Eastern Band of the Cherokee Indians.

(1) The licensing provisions of this Article do not apply to a member of an Indian tribe recognized under Chapter 71A of the General Statutes for purposes of hunting, trapping, or fishing on tribal land. A person taking advantage of this exemption shall possess and produce proper identification confirming the person's membership in a State-recognized tribe upon request by a wildlife enforcement officer. For purposes of this section, "tribal land" means only real property owned by an Indian tribe recognized under Chapter 71A of the General Statutes.

(2) A resident of this State who is a member of the Armed Forces of the United States serving outside the State, or who is serving on full-time active military duty outside the State in a reserve component of the Armed Forces of the United States as defined in 10 U.S.C. 10101, is exempt from the hunting and fishing license requirements of G.S. 113-270.1B, G.S. 113-270.3(b)(1), G.S. 113-270.3(b)(3), G.S. 113-270.3(b)(5), G.S. 113-271, G.S. 113-272.2(c)(1), and the Coastal Recreational Fishing License requirements of G.S. 113-174.2 while that person is on leave in this State for 30 days or less. In order to qualify for the exemption provided under this subsection, the person shall have on his or her person at all times during the hunting or fishing activity the person's military identification card and a copy of the official document issued by the person's service unit confirming that the person is on authorized leave from a duty station outside this State.

A person exempted from licensing requirements under this subsection is responsible for complying with any reporting requirements prescribed by rule of the Wildlife Resources Commission, complying with the hunter education requirements of G.S. 113-270.1A, purchasing any federal migratory waterfowl stamps as a result of waterfowl hunting activity, and complying with any other requirements that the holder of a North Carolina license is subject to.

subject to.

(m) The fourth day of July of each year is declared a free fishing day to promote the sport of fishing and no hook-and-line fishing license is required to fish in any of the public waters of the State on that day. All other laws and rules pertaining to hook-and-line fishing apply.

(n) The Wildlife Resources Commission may adopt rules to exempt individuals from the hunting and fishing license requirements of G.S. 113-270.1B, 113-270.3(b)(1), 113-270.3(b)(1a), 113-270.3(b)(1b), 113-270.3(b)(2), 113-270.3(b)(3), 113-270.3(b)(5), 113-271, and 113-272.2(c)(1) who participate in organized hunting and fishing events for the specified time and place of the event when the purpose of the event is consistent with the conservation objectives of the Commission. A person exempted from licensing requirements under this subsection is responsible for complying with any reporting requirements prescribed by rule of the Wildlife Resources Commission, purchasing any federal migratory waterfowl stamps as a result of waterfowl hunting activity, and complying with any other requirements that the holder of a North Carolina license is subject to. Those exempted persons shall comply with the hunter safety requirements of G.S. 113-270.1A or shall be accompanied by a properly licensed adult who maintains a proximity to the license exempt individual which enables the adult to monitor the activities of, and communicate with, the individual at all times.

(o) An eligible member of a volunteer fire department for five consecutive fiscal years, including the prior fiscal year, may be issued any adult resident lifetime license issued and administered by the Wildlife Resources Commission for fifty percent (50%) of the applicable license fee amount. For purposes of this subsection, the term "eligible member" means an individual appearing on the certified roster of eligible firefighters submitted to the North Carolina State Firefighters'

Association under G.S. 58-86-25. (1929, c. 335, ss. 1, 10; 1935, c. 486, s. 12; 1937, c. 45, s. 1; 1945, c. 567, ss. 1, 6; c. 617; 1949, c. 1203, s. 1; 1951, c. 1112, s. 2; 1957, c. 849, s. 1; 1959, c. 304; 1961, cc. 312, 329; c. 834, s. 1; 1963, c. 170; 1965, c. 957, s. 2; 1967, cc. 127, 654, 790; 1969, c. 1030; c. 1042, ss. 1-5; 1971, c. 242; c. 282, s. 1; c. 705, ss. 1, 2; c. 1231, s. 1; 1973, c. 1262, s. 18; 1975, c. 197, ss. 1-4; 1977, c. 191, s. 1; c. 658; 1979, c. 830, s. 1; 1987, c. 827, s. 98; 1993 (Reg. Sess., 1994), c. 684, ss. 6, 8, 9; 1999-456, ss. 29, 30; 2005-285, s. 1; 2005-438, s. 2; 2005-455, ss. 1.11, 1.12, 1.13, 1.14; 2009-25, s. 1; 2009-248, s. 1; 2011-401, s. 3.15; 2013-63, s. 4; 2013-283, s. 14; 2018-90, s. 3; 2019-204, ss. 6(o), 12.)

**113-300.6. Governor to execute compact; form of compact.**

The Governor shall execute an Interstate Wildlife Violator Compact on behalf of the State of North Carolina with any state of the United States legally joining therein in the form substantially as follows:

Article I.

Findings, Declaration of Policy, and Purpose.

- (a) The party states find that:
  - (1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.
  - (2) The protection of their respective wildlife resources can be materially affected by the degree of compliance with state statute, law, regulation, ordinance, or administrative rule relating to the management of those resources.
  - (3) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of these natural resources.
  - (4) Wildlife resources are valuable without regard to political boundaries; therefore, all persons should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of all party states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.
  - (5) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.
  - (6) The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states.
  - (7) In most instances, a person who is cited for a wildlife violation in a state other than the person's home state:
    - a. Must post collateral or bond to secure appearance for a trial at a later date; or
    - b. If unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or
    - c. Is taken directly to court for an immediate appearance.
  - (8) The purpose of the enforcement practices described in subdivision (7) of this subsection is to ensure compliance with the terms of a wildlife citation by the person who, if permitted to continue on the person's way after receiving the citation, could return to the person's home state and disregard the person's duty under the terms of the citation.
  - (9) In most instances, a person receiving a wildlife citation in the person's home state is permitted to accept the citation from the officer at the scene of the violation and to immediately continue on the person's way after agreeing or being instructed to comply with the terms of the citation.
  - (10) The practice described in subdivision (7) of this subsection causes unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine, and thus is compelled to remain in custody until some alternative arrangement can be made.
  - (11) The enforcement practices described in subdivision (7) of this subsection consume an undue amount of law enforcement time.
- (b) It is the policy of the party states to:
  - (1) Promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to management of wildlife resources in their respective states.
  - (2) Recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a party state and treat this suspension as if it had occurred in their state.
  - (3) Allow violators to accept a wildlife citation, except as provided in subsection (b) of Article III, and proceed on the violator's way without delay whether or not the person is a resident in the state in which the citation was issued, provided that the violator's home state is party to this compact.
  - (4) Report to the appropriate party state, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.
  - (5) Allow the home state to recognize and treat convictions recorded for their residents which occurred in another party state as if they had occurred in the home state.

- (6) Extend cooperation to its fullest extent among the party states for obtaining compliance with the terms of a wildlife citation issued in one party state to a resident of another party state.
  - (7) Maximize effective use of law enforcement personnel and information.
  - (8) Assist court systems in the efficient disposition of wildlife violations.
- (c) The purposes of this compact are to:
- (1) Provide a means through which the party states may participate in a reciprocal program to effectuate policies enumerated in subsection (b) of this Article in a uniform and orderly manner.
  - (2) Provide for the fair and impartial treatment of wildlife violators operating within party states in recognition of the person's right of due process and the sovereign status of a party state.

Article II.  
Definitions.

Unless the context requires otherwise, the definitions in this Article apply through this compact and are intended only for the implementation of this compact:

- (1) "Citation" means any summons, complaint, ticket, penalty assessment, or other official document issued by a wildlife officer or other peace officer for a wildlife violation containing an order which requires the person to respond.
- (2) "Collateral" means any cash or other security deposited to secure an appearance for trial, in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.
- (3) "Compliance" with respect to a citation means the act of answering the citation through appearance at a court, a tribunal, or payment of fines, costs, and surcharges, if any, or both such appearance and payment.
- (4) "Conviction" means a conviction, including any court conviction, of any offense related to the preservation, protection, management, or restoration of wildlife which is prohibited by state statute, law, regulation, ordinance, or administrative rule, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, or payment of a penalty assessment, or a plea of nolo contendere, or the imposition of a deferred or suspended sentence by the court.
- (5) "Court" means a court of law, including Magistrate's Court and the Justice of the Peace Court.
- (6) "Home state" means the state of primary residence of a person.
- (7) "Issuing state" means the party state which issues a wildlife citation to the violator.
- (8) "License" means any license, permit, or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a party state.
- (9) "Licensing authority" means the department or division within each party state which is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.
- (10) "Party state" means any state which enacts legislation to become a member of this wildlife compact.
- (11) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that the person will comply with the terms of that citation.
- (12) "State" means any state, territory, or possession of the United States, including the District of Columbia and the Commonwealth of Puerto Rico.
- (13) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.
- (14) "Terms of the citation" means those conditions and options expressly stated upon the citation.
- (15) "Wildlife" means all species of animals, including but not necessarily limited to mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a party state. "Wildlife" includes all species of animals that are protected or regulated by the Wildlife Resources Commission, the Marine Fisheries Commission, or the Division of Marine Fisheries in the Department of Environmental Quality. "Wildlife" also means food fish and shellfish as defined by statute, law, regulation, ordinance, or administrative rule in a party state. Species included in the definition of "wildlife" vary from state to state and determination of whether a species is "wildlife" for the purposes of this compact shall be based on local law.
- (16) "Wildlife law" means any statute, law, regulation, ordinance, or administrative rule developed and enacted to manage wildlife resources and the use thereof.
- (17) "Wildlife officer" means any individual authorized by a party state to issue a citation for a wildlife violation.
- (18) "Wildlife violation" means any cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted to manage wildlife resources and the use thereof.

Article III.

Procedures for Issuing State.

- (a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a party state in the same manner as if the person were a resident of the home state and shall not require the person to post collateral to secure appearance, subject to the exceptions contained in subsection (b) of this Article, if the officer receives the person's personal recognizance that the person will comply with the terms of the citation.
- (b) Personal recognizance is acceptable:
  - (1) If not prohibited by local law or the compact manual; and
  - (2) If the violator provides adequate proof of the violator's identification to the wildlife officer.
- (c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the party state in which the wildlife citation was issued. The report shall be made in accordance with procedures specified by the issuing state and shall contain the information specified in the compact manual as minimum requirements for effective processing by the home state.
- (d) Upon receipt of the report of conviction or noncompliance required by subsection (c) of this Article, the licensing authority of the issuing state shall transmit to the licensing authority in the home state of the violator the information in a form and content as contained in the compact manual.

Article IV.

Procedures for Home State.

- (a) Upon receipt of a report of failure to comply with the terms of a citation from the licensing authority of the issuing state, the licensing authority of the home state shall notify the violator, shall initiate a suspension action in accordance with the home state's suspension procedures, and shall suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards will be accorded.
- (b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as if it occurred in the home state for the purposes of the suspension of license privileges.
- (c) The licensing authority of the home state shall maintain a record of actions taken and make reports to issuing states as provided in the compact manual.

Article V.

Reciprocal Recognition of Suspension.

All party states shall recognize the suspension of license privileges of any person by any state as if the violation on which the suspension is based had in fact occurred in their state and could have been the basis for suspension of license privileges in their state.

Article VI.

Applicability of Other Laws.

Except as expressly required by provisions of this compact, nothing herein shall be construed to affect the right of any party state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangements between a party state and a nonparty state concerning wildlife law enforcement.

Article VII.

Compact Administrator Procedures.

- (a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a Board of Compact Administrators is established. The Board of Compact Administrators shall be composed of one representative from each of the party states to be known as the Compact Administrator. The Compact Administrator shall be appointed by the head of the licensing authority of each party state and will serve and be subject to removal in accordance with the laws of the state the Compact Administrator represents. A Compact Administrator may provide for the discharge of the Compact Administrator's duties and the performance of the Compact Administrator's functions as a Board member by an alternate. An alternate shall not be entitled to serve unless written notification of the alternate's identity has been given to the Board of Compact Administrators.
- (b) Each member of the Board of Compact Administrators shall be entitled to one vote. No action of the Board of Compact Administrators shall be binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor thereof. Action by the Board of Compact Administrators shall be only at a meeting at which a majority of the party states are represented.
- (c) The Board of Compact Administrators shall elect annually, from its membership, a Chair and Vice-Chair.
- (d) The Board of Compact Administrators shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party state, for the conduct of its business and shall have the power to amend and rescind its bylaws.
- (e) The Board of Compact Administrators may accept for any of its purposes and functions under this compact all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, utilize, and dispose of the same.

(f) The Board of Compact Administrators may contract with or accept services or personnel from any governmental or intergovernmental agency, individual, firm, corporation, or any private nonprofit organization or institution.

(g) The Board of Compact Administrators shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to Board of Compact Administrators action shall be contained in the compact manual.

Article VIII.

Entry into Compact and Withdrawal.

(a) This compact shall become effective when it has been adopted by at least two states.

(b) (1) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the Chair of the Board of Compact Administrators.

(2) The resolution shall be in a form and content as provided in the compact manual and shall include statements that in substance are as follows:

- a. A citation of the authority by which the state is empowered to become a party to this compact;
- b. Agreement to comply with the terms and provisions of the compact; and
- c. That compact entry is with all states then party to the compact and with any state that legally becomes a party to the compact.

(3) The effective date of entry shall be specified by the applying state, but shall not be less than 60 days after notice has been given by the Chair of the Board of Compact Administrators or by the secretariat of the Board to each party state that the resolution from the applying state has been received.

(c) A party state may withdraw from this compact by official written notice to the other party states, but a withdrawal shall not take effect until 90 days after notice of withdrawal is given. The notice shall be directed to the Compact Administrator of each member state. No withdrawal shall affect the validity of this compact as to the remaining party states.

Article IX.

Amendments to the Compact.

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the Chair of the Board of Compact Administrators and may be initiated by one or more party states.

(b) Adoption of an amendment shall require endorsement by all party states and shall become effective 30 days after the date of the last endorsement.

Article X.

Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, individual, or circumstance is held invalid, the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any party state thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. (2008-120, s. 1; 2009-15, s. 1; 2015-241, s. 14.30(u).)

**G.S. 113-300.7. Appointment of Compact Administrator; implementation; rules; amendments.**

(a) The Chair of the Wildlife Resources Commission, in consultation with the Chair of the Marine Fisheries Commission and the Fisheries Director, shall appoint the Compact Administrator for North Carolina. The Compact Administrator shall serve at the pleasure of the Chair of the Wildlife Resources Commission.

(b) The Wildlife Resources Commission, the Secretary of Environmental Quality, and the Division of Marine Fisheries may suspend or revoke the license, privilege, or right of any person to hunt, fish, trap, possess, or transport wildlife in this State to the extent that the license, privilege, or right has been suspended or revoked by another compact member under the provisions of this Article.

(c) The Wildlife Resources Commission and the Marine Fisheries Commission shall adopt rules necessary to carry out the purposes of this Article.

(d) Any proposed amendment to the Compact shall be submitted to the General Assembly as an amendment to G.S. 113-300.6. In order to be endorsed by the State of North Carolina as provided by subsection (b) of Article IX of the Compact, a proposed amendment to the Compact must be enacted into law. (2008-120, s. 1; 2009-15, s. 2; 2015-241, s. 14.30(v).)

**G.S. 113-300.8. Violations.**

It is unlawful for a person whose license, privilege, or right to hunt, fish, trap, possess, or transport wildlife has been suspended or revoked under the provisions of this Article to exercise that right or privilege within this State or to purchase or possess a license granting that right or privilege. A person who hunts, fishes, traps, possesses, or transports wildlife in

this State or who purchases or possesses a license to hunt, fish, trap, possess, or transport wildlife in this State in violation of a suspension or revocation under this Article is guilty of a Class 1 misdemeanor. (2008-120, s. 1.)

**G.S. 113-351. Unified hunting and fishing licenses; subsistence license waiver.**

- (a) Definitions. - The definitions set out in G.S. 113-174 apply to this Article.
- (b) General Provisions Governing Licenses and Waivers. - The general provisions governing licenses set out in G.S. 113-174.1 apply to licenses and waivers issued under this section.
- (c) Types of Unified Hunting and Fishing Licenses; Fees; Duration. - The Wildlife Resources Commission shall issue the following Unified Hunting and Fishing Licenses:
  - (1) Annual Resident Unified Sportsman/Coastal Recreational Fishing License. - \$65.00. This license is valid from the date of issue for a period of 12 months as defined by G.S. 113-270.1B(b) and G.S. 113-270.1B(c). This license shall be issued only to an individual who is a resident of the State. This license authorizes the licensee to take all wild animals and wild birds, including waterfowl, by all lawful methods in all open seasons, including the use of game lands; to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters; and to engage in recreational fishing in coastal fishing waters.
  - (2) Annual Resident Unified Inland/Coastal Recreational Fishing License. - \$40.00. This license is valid from the date of issue for a period of 12 months as defined by G.S. 113-270.1B(b) and G.S. 113-270.1B(c). This license shall be issued only to an individual who is a resident of the State. This license authorizes the licensee to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters, and to engage in recreational fishing in coastal fishing waters.
  - (3) Lifetime Unified Sportsman/Coastal Recreational Fishing Licenses. - A license issued under this subdivision is valid for the lifetime of the licensee. A license issued under this subdivision authorizes the licensee to take all wild animals and wild birds, including waterfowl, by all lawful methods in all open seasons, including the use of game lands; to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters; and to engage in recreational fishing in coastal fishing waters. [The licenses are as follows:]
    - a. Infant Lifetime Unified Sportsman/Coastal Recreational Fishing License. - \$275.00. This license shall be issued only to an individual who is younger than one year of age.
    - b. Youth Lifetime Unified Sportsman/Coastal Recreational Fishing License. - \$450.00. This license shall be issued only to an individual who is one year of age or older but younger than 12 years of age.
    - c. Resident Adult Lifetime Unified Sportsman/Coastal Recreational Fishing License. - \$675.00. This license shall be issued only to an individual who is 12 years of age or older but younger than 70 years of age and who is a resident of the State.
    - d. Nonresident Adult Lifetime Unified Sportsman/Coastal Recreational Fishing License. - \$1,550. This license shall be issued only to an individual who is 12 years of age or older and who is not a resident of the State.
    - e. Resident Age 70 Lifetime Unified Sportsman/Coastal Recreational Fishing License. - \$30.00. This license shall be issued only to an individual who is 70 years of age or older and who is a resident of the State.
    - f. Resident Disabled Veteran Lifetime Unified Sportsman/Coastal Recreational Fishing License. - \$110.00. This license shall be issued only to an individual who is a resident of the State and who is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans Affairs or as established by rules of the Wildlife Resources Commission.
    - g. Resident Totally Disabled Lifetime Unified Sportsman/Coastal Recreational Fishing License. - \$110.00. This license shall be issued only to an individual who is a resident of the State and who is totally and permanently disabled as determined by the Social Security Administration or as established by rules of the Wildlife Resources Commission.
  - (4) Lifetime Unified Inland/Coastal Recreational Fishing Licenses. - Except as provided in sub-subdivisions b. and c. of this subdivision, a license issued under this subdivision is valid for the lifetime of the licensee. A license issued under this subdivision authorizes the licensee to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters, and to engage in recreational fishing in coastal fishing waters. [The licenses are as follows:]
    - a. Resident Lifetime Unified Inland/Coastal Recreational Fishing License. - \$450.00.
    - b. Resident Legally Blind Lifetime Unified Inland/Coastal Recreational Fishing License. - No charge. This license shall be issued only to an individual who is a resident of the State and

who has been certified by the Department of Health and Human Services as an individual whose vision with glasses is insufficient for use in ordinary occupations for which sight is essential. This license remains valid for the lifetime of the licensee so long as the licensee remains legally blind.

- c. Resident Adult Care Home Lifetime Unified Inland/Coastal Recreational Fishing License. - No charge. This license shall be issued only to an individual who is a resident of the State and who resides in an adult care home as defined in G.S. 131D-2.1 or G.S. 131E-101(1). This license remains valid for the lifetime of the licensee so long as the licensee remains a resident of an adult care home.

(d) Resident Subsistence Unified Inland/Coastal Recreational Fishing License Waiver. - A county department of social services shall issue a Resident Subsistence Unified Inland/Coastal Recreational Fishing License Waiver to an individual who receives benefits from Medicaid, Food and Nutrition Services, or Work First Family Assistance through the county department of social services and who requests a waiver. This waiver shall be issued at no charge. This waiver is valid for a period of one year from the date of issuance. This waiver shall be issued only to an individual who is a resident of the State. This waiver authorizes the waiver holder to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, except for public mountain trout waters, and to engage in recreational fishing in coastal fishing waters. County departments of social services shall supply the Wildlife Resources Commission with the name, mailing address, and telephone number of each individual who receives a waiver. (2005-455, s. 1.16; 2006-79, s. 2; 2006-255, s. 10; 2007-97, s. 14; 2009-462, s. 4(e); 2013-283, s. 10; 2014-100, s. 14.25(d); 2019-204, s. 4.)

**G.S. 132-1. "Public records" defined.**

- (a) "Public record" or "public records" shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions. Agency of North Carolina government or its subdivisions shall mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government.
- (b) The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost unless otherwise specifically provided by law. As used herein, "minimal cost" shall mean the actual cost of reproducing the public record or public information. (1935, c. 265, s. 1; 1975, c. 787, s. 1; 1995, c. 388, s. 1.)

**G.S. 132-1.10. Social security numbers and other personal identifying information.**

- (a) The General Assembly finds the following:
  - (1) The social security number can be used as a tool to perpetuate fraud against a person and to acquire sensitive personal, financial, medical, and familial information, the release of which could cause great financial or personal harm to an individual. While the social security number was intended to be used solely for the administration of the federal Social Security System, over time this unique numeric identifier has been used extensively for identity verification purposes and other legitimate consensual purposes.
  - (2) Although there are legitimate reasons for State and local government agencies to collect social security numbers and other personal identifying information from individuals, government should collect the information only for legitimate purposes or when required by law.
  - (3) When State and local government agencies possess social security numbers or other personal identifying information, the governments should minimize the instances this information is disseminated either internally within government or externally with the general public.
- (b) Except as provided in subsections (c) and (d) of this section, no agency of the State or its political subdivisions, or any agent or employee of a government agency, shall do any of the following:
  - (1) Collect a social security number from an individual unless authorized by law to do so or unless the collection of the social security number is otherwise imperative for the performance of that agency's duties and responsibilities as prescribed by law. Social security numbers collected by an agency must be relevant to the purpose for which collected and shall not be collected until and unless the need for social security numbers has been clearly documented.
  - (2) Fail, when collecting a social security number from an individual, to segregate that number on a separate page from the rest of the record, or as otherwise appropriate, in order that the social security number can be more easily redacted pursuant to a valid public records request.

- (3) Fail, when collecting a social security number from an individual, to provide, at the time of or prior to the actual collection of the social security number by that agency, that individual, upon request, with a statement of the purpose or purposes for which the social security number is being collected and used.
  - (4) Use the social security number for any purpose other than the purpose stated.
  - (5) Intentionally communicate or otherwise make available to the general public a person's social security number or other identifying information. "Identifying information", as used in this subdivision, shall have the same meaning as in G.S. 14-113.20(b), except it shall not include electronic identification numbers, electronic mail names or addresses, Internet account numbers, Internet identification names, parent's legal surname prior to marriage, or drivers license numbers appearing on law enforcement records. Identifying information shall be confidential and not be a public record under this Chapter. A record, with identifying information removed or redacted, is a public record if it would otherwise be a public record under this Chapter but for the identifying information. The presence of identifying information in a public record does not change the nature of the public record. If all other public records requirements are met under this Chapter, the agency of the State or its political subdivisions shall respond to a public records request, even if the records contain identifying information, as promptly as possible, by providing the public record with the identifying information removed or redacted.
  - (6) Intentionally print or imbed an individual's social security number on any card required for the individual to access government services.
  - (7) Require an individual to transmit the individual's social security number over the Internet, unless the connection is secure or the social security number is encrypted.
  - (8) Require an individual to use the individual's social security number to access an Internet Web site, unless a password or unique personal identification number or other authentication device is also required to access the Internet Web site.
  - (9) Print an individual's social security number on any materials that are mailed to the individual, unless state or federal law required that the social security number be on the document to be mailed. A social security number that is permitted to be mailed under this subdivision may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been opened.
- (c) Subsection (b) of this section does not apply in the following circumstances:
- (1) To social security numbers or other identifying information disclosed to another governmental entity or its agents, employees, or contractors if disclosure is necessary for the receiving entity to perform its duties and responsibilities. The receiving governmental entity and its agents, employees, and contractors shall maintain the confidential and exempt status of such numbers.
  - (2) To social security numbers or other identifying information disclosed pursuant to a court order, warrant, or subpoena.
  - (3) To social security numbers or other identifying information disclosed for public health purposes pursuant to and in compliance with Chapter 130A of the General Statutes.
  - (4) To social security numbers or other identifying information that have been redacted.
  - (5) To certified copies of vital records issued by the State Registrar and other authorized officials pursuant to G.S. 130A-93(c). The State Registrar may disclose any identifying information other than social security numbers on any uncertified vital record.
  - (6) To any recorded document in the official records of the register of deeds of the county.
  - (7) To any document filed in the official records of the courts.
- (c1) If an agency of the State or its political subdivisions, or any agent or employee of a government agency, experiences a security breach, as defined in Article 2A of Chapter 75 of the General Statutes, the agency shall comply with the requirements of G.S. 75-65.
- (d) No person preparing or filing a document to be recorded or filed in the official records of the register of deeds, the Department of the Secretary of State, or of the courts may include any person's social security, employer taxpayer identification, drivers license, state identification, passport, checking account, savings account, credit card, or debit card number, or personal identification (PIN) code or passwords in that document, unless otherwise expressly required by law or court order, adopted by the State Registrar on records of vital events, or redacted. Any loan closing instruction that requires the inclusion of a person's social security number on a document to be recorded shall be void. Any person who violates this subsection shall be guilty of an infraction, punishable by a fine not to exceed five hundred dollars (\$500.00) for each violation.
- (e) The validity of an instrument as between the parties to the instrument is not affected by the inclusion of personal information on a document recorded or filed with the official records of the register of deeds or the Department of the Secretary of State. The register of deeds or the Department of the Secretary of State may not reject an instrument presented for recording because the instrument contains an individual's personal information.

(f) Any person has the right to request that a register of deeds or clerk of court remove, from an image or copy of an official record placed on a register of deeds' or court's Internet Website available to the general public or an Internet Web site available to the general public used by a register of deeds or court to display public records by the register of deeds or clerk of court, the person's social security, employer taxpayer identification, drivers license, state identification, passport, checking account, savings account, credit card, or debit card number, or personal identification (PIN) code or passwords contained in that official record. The request must be made in writing, legibly signed by the requester, and delivered by mail, facsimile, or electronic transmission, or delivered in person to the register of deeds or clerk of court. The request must specify the personal information to be redacted, information that identifies the document that contains the personal information and unique information that identifies the location within the document that contains the social security, employer taxpayer identification, drivers license, state identification, passport, checking account, savings account, credit card, or debit card number, or personal identification (PIN) code or passwords to be redacted. The request for redaction shall be considered a public record with access restricted to the register of deeds, the clerk of court, their staff, or upon order of the court. The register of deeds or clerk of court shall have no duty to inquire beyond the written request to verify the identity of a person requesting redaction and shall have no duty to remove redaction for any reason upon subsequent request by an individual or by order of the court, if impossible to do so. No fee will be charged for the redaction pursuant to such request. Any person who requests a redaction without proper authority to do so shall be guilty of an infraction, punishable by a fine not to exceed five hundred dollars (\$500.00) for each violation.

(f1) Without a request made pursuant to subsection (f) of this section, a register of deeds, clerk of court, or the Administrative Office of the Courts may remove from images or copies of publicly accessible official records any of the identifying and financial information listed in subsection (f) of this section that is contained in that official record. Registers of deeds, clerks of court, and the Administrative Office of the Courts may apply optical character recognition technology or other reasonably available technology to publicly accessible official records in order to, in good faith, identify and redact any of the identifying and financial information listed in subsection (f) of this section. Notwithstanding the foregoing, law enforcement personnel, judicial officials, and parties to a case and their counsel shall be entitled to access, inspect, and copy unredacted records.

(f2) The Administrative Office of the Courts or a clerk of superior court may keep confidential the names, phone numbers, and e-mail addresses collected for the purpose of a court proceeding notification system.

(g) A register of deeds or clerk of court shall immediately and conspicuously post signs throughout his or her offices for public viewing and shall immediately and conspicuously post a notice on any Internet Web site available to the general public used by a register of deeds or clerk of court a notice stating, in substantially similar form, the following:

- (1) Any person preparing or filing a document for recordation or filing in the official records may not include a social security, employer taxpayer identification, drivers license, state identification, passport, checking account, savings account, credit card, or debit card number, or personal identification (PIN) code or passwords in the document, unless expressly required by law or court order, adopted by the State Registrar on records of vital events, or redacted so that no more than the last four digits of the identification number is included.
- (2) Any person has a right to request a register of deeds or clerk of court to remove, from an image or copy of an official record placed on a register of deeds' or clerk of court's Internet Web site available to the general public or on an Internet Web site available to the general public used by a register of deeds or clerk of court to display public records, any social security, employer taxpayer identification, drivers license, state identification, passport, checking account, savings account, credit card, or debit card number, or personal identification (PIN) code or passwords contained in an official record. The request must be made in writing and delivered by mail, facsimile, or electronic transmission, or delivered in person, to the register of deeds or clerk of court. The request must specify the personal information to be redacted, information that identifies the document that contains the personal information and unique information that identifies the location within the document that contains the social security, employer taxpayer identification, drivers license, state identification, passport, checking account, savings account, credit card, or debit card number, or personal identification (PIN) code or passwords to be redacted. No fee will be charged for the redaction pursuant to such a request. Any person who requests a redaction without proper authority to do so shall be guilty of an infraction, punishable by a fine not to exceed five hundred dollars (\$500.00) for each violation.

(h) Any affected person may petition the court for an order directing compliance with this section. No liability shall accrue to a register of deeds or clerk of court or to his or her agent for any action related to provisions of this section or for any claims or damages that might result from a social security number or other identifying information on the public record or on a register of deeds' or clerk of court's Internet website available to the general public or an Internet Web site available to the general public used by a register of deeds or clerk of court. (2005-414, s. 4; 2006-173, ss. 1-7; 2009-355, s. 3; 2017-158, s. 26.3; 2018-40, s. 13.1.)

**G.S. 141-6. Eastern boundary of State; jurisdiction over territory within littoral waters and lands under same.**

- (a) The Constitution of the State of North Carolina, adopted in 1868, having provided in Article I, Sec. 34, that the "limits and boundaries of the State shall be and remain as they now are," and the eastern limit and boundary of the State of North Carolina on the Atlantic seaboard having always been, since the Treaty of Peace with Great Britain in 1783 and the Declaration of Independence of July 4, 1776, one marine league eastward from the Atlantic seashore, measured from the extreme low-water mark, the eastern boundary of the State of North Carolina is hereby declared to be fixed as it has always been at one marine league eastward from the seashore of the Atlantic Ocean bordering the State of North Carolina, measured from the extreme low-water mark of the Atlantic Ocean seashore aforesaid.
- (b) The State of North Carolina shall continue as it always has to exercise jurisdiction over the territory within the littoral waters and ownership of the lands under the same within the boundaries of the State, subject only to the jurisdiction of the federal government over navigation within such territorial waters.
- (c) The Governor and the Attorney General are hereby directed to take all such action as may be found appropriate to defend the jurisdiction of the State over its littoral waters and the ownership of the lands beneath the same. (1947, c. 1031, ss. 1-3; 1969, c. 541, s. 1.)

**G.S. 141-7.1. Southern lateral seaward boundary.**

The lateral seaward boundary between North Carolina and South Carolina from the low-water mark of the Atlantic Ocean shall be and is hereby designated as a continuation of the North Carolina-South Carolina boundary line as described by monuments located at Latitude 33° 51' 50.7214" North, Longitude 78° 33' 22.9448" West, at Latitude 33° 51' 36.4626" North, Longitude 78° 33' 06.1937" West, and at Latitude 33° 51' 07.8792" North, Longitude 78° 32' 32.6210" West, in a straight line projection of said line to the seaward limits of the States' territorial jurisdiction, such line to be extended on the same bearing insofar as a need for further delimitation may arise. (1979, c. 894; 1981, c. 744.)

**G.S. 141-8. Northern lateral seaward boundary.**

The lateral seaward boundary between North Carolina and Virginia eastward from the low-water mark of the Atlantic Ocean shall be and is hereby designated as a line beginning at the intersection of the low-water mark of the Atlantic Ocean and the existing North Carolina-Virginia boundary line; thence due east on a true 90 degree bearing to the seaward jurisdictional limit of North Carolina; such boundary line to be extended on the true 90 degree bearing as far as a need for further delineation may arise. (1969, c. 841; 1971, c. 452, s. 1.)

**G.S. 143B-279.2. Department of Environmental Quality - duties.**

It shall be the duty of the Department:

- (1) To provide for the protection of the environment;
- (1a) To administer the State Outer Continental Shelf (OCS) Task Force and coordinate State participation activities in the federal outer continental shelf resource recovery programs as provided under the OCS Lands Act Amendments of 1978 (43 USC §§ 1801 et seq.) and the OCS Lands Act Amendments of 1986 (43 USC §§ 1331 et seq.).
- (1b) To provide for the protection of the environment and public health through the regulation of solid waste and hazardous waste management and the administration of environmental health programs.
- (2) Repealed by Session Laws 1997-443, s. 11A.5, effective August 28, 1997.
- (2a) Repealed by Session Laws 2015-241, s. 14.30(kkk), effective July 1, 2015.
- (3) To provide for the management of the State's natural resources.
- (4) Repealed by Session Laws 2011-145, s. 13.11, effective July 1, 2011. (1989, c. 727, s. 3; 1993, c. 321, s. 28(c); c. 561, s. 116(e); 1997-443, s. 11A.5; 2009-451, s. 13.1A; 2011-145, s. 13.11; 2015-241, ss. 14.30(u), (kkk).)

**G.S. 143B-279.7. Fish kill response protocols; report.**

(a) The Department of Environmental Quality shall coordinate an intradepartmental effort to develop scientific protocols to respond to significant fish kill events utilizing staff from the Division of Water Resources, Division of Marine Fisheries, Department of Health and Human Services, Wildlife Resources Commission, the scientific community, and other agencies, as necessary. In developing these protocols, the Department of Environmental Quality shall address the unpredictable nature of fish kills caused by both natural and man-made factors. The protocols shall contain written procedures to respond to significant fish kill events including:

- (1) Developing a plan of action to evaluate the impact of fish kills on public health and the environment.
- (2) Responding to fish kills within 24 hours.
- (3) Investigating and collecting data relating to fish kill events.
- (4) Summarizing and distributing fish kill information to participating agencies, scientists and other interested parties.

(b) The Secretary of Environmental Quality shall take all necessary and appropriate steps to effectively carry out the purposes of this Part including:

- (1) Providing adequate training for fish kill investigators.
- (2) Taking immediate action to protect public health and the environment.
- (3) Cooperating with agencies, scientists, and other interested parties, to help determine the cause of the fish kill.

(c) Repealed by Session Laws 2017-10, s. 4.7, effective May 4, 2017. (1995 (Reg. Sess., 1996), c. 633, s. 4; 1997-443, s. 11A.108A; 2001-452, s. 2.8; 2001-474, ss. 30, 31; 2013-413, s. 57(p); 2014-115, s. 17; 2015-241, ss. 14.30(u), (v); 2017-10, s. 4.7.)

**G.S. 143B-279.8. Coastal Habitat Protection Plans.**

(a) The Department shall coordinate the preparation of draft Coastal Habitat Protection Plans for critical fisheries habitats. The goal of the Plans shall be the long-term enhancement of coastal fisheries associated with each coastal habitat identified in subdivision (1) of this subsection. The Department shall use the staff of those divisions within the Department that have jurisdiction over marine fisheries, water quality, and coastal area management in the preparation of the Coastal Habitat Protection Plans and shall request assistance from other federal and State agencies as necessary. The plans shall:

- (1) Describe and classify biological systems in the habitats, including wetlands, fish spawning grounds, estuarine or aquatic endangered or threatened species, primary or secondary nursery areas, shellfish beds, submerged aquatic vegetation (SAV) beds, and habitats in outstanding resource waters.
- (2) Evaluate the function, value to coastal fisheries, status, and trends of the habitats.
- (3) Identify existing and potential threats to the habitats and the impact on coastal fishing.
- (4) Recommend actions to protect and restore the habitats.

(b) Once a draft Coastal Habitat Protection Plan has been prepared, the chairs of the Coastal Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission shall each appoint two members of the commission he or she chairs to a six-member review committee. The six-member review committee, in consultation with the Department, shall review the draft Plan and may revise the draft Plan on a consensus basis. The draft Plan, as revised by the six-member review committee, shall then be submitted to the Coastal Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission, each of which shall independently consider the Plan for adoption. If any of the three commissions is unable to agree to any aspect of a Plan, the chair of each commission shall refer that aspect of the Plan to a six-member conference committee to facilitate the resolution of any differences. The six-member conference committee shall be appointed in the same manner as a six-member review committee and may include members of the six-member review committee that reviewed the Plan. Each final Coastal Habitat Protection Plan shall consist of those provisions adopted by all three commissions. The three commissions shall review and revise each Coastal Habitat Protection Plan at least once every five years.

(c) In carrying out their powers and duties, the Coastal Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission shall ensure, to the maximum extent practicable, that their actions are consistent with the Coastal Habitat Protection Plans as adopted by the three commissions. The obligation to act in a manner consistent with a Coastal Habitat Protection Plan is prospective only and does not oblige any commission to modify any rule adopted, permit decision made, or other action taken prior to the adoption or revision of the Coastal Habitat Protection Plan by the three commissions. The Coastal Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission shall adopt rules to implement Coastal Habitat Protection Plans in accordance with Chapter 150B of the General Statutes.

(d) If any of the three commissions concludes that another commission has taken an action that is inconsistent with a Coastal Habitat Protection Plan, that commission may request a written explanation of the action from the other commission. A commission shall provide a written explanation: (i) upon the written request of one of the other two commissions, or (ii) upon its own motion if the commission determines that it must take an action that is inconsistent with a Coastal Habitat Protection Plan.

(e) The Coastal Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission shall report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on progress in developing and implementing the Coastal Habitat Protection Plans, including the extent to which the actions of the three commissions are consistent with the Plans, on or before September 1 of each year in which any significant revisions to the Plans are made.

(f) Repealed by Session Laws 2017-10, s. 4.11(b), effective May 4, 2017. (1997-400, s. 3.1; 1997-443, s. 11A.119(b); 2011-291, ss. 2.52, 2.53; 2012-201, s. 6; 2015-241, s. 14.30(v); 2017-10, ss. 4.11(a), (b); 2017-57, s. 14.1(m).)

**G.S. 143B-281.1. Wildlife Resources Commission - transfer; independence preserved; appointment of Executive Director and employees.**

The Wildlife Resources Commission, as established by Chapters 75A, 113, and 143 of the General Statutes and other applicable laws of this State, is hereby transferred to the Department of Environmental Quality by a Type II transfer as defined in G.S. 143A-6. The Wildlife Resources Commission shall exercise all its prescribed statutory powers independently of the Secretary of Environmental Quality and, other provisions of this Chapter notwithstanding, shall be subject to the direction and supervision of the Secretary only with respect to the management functions of coordinating

and reporting. Any other provisions of this Chapter to the contrary notwithstanding, the Executive Director of the Wildlife Resources Commission shall be appointed by the Commission and the employees of the Commission shall be employed as now provided in G.S. 143-246. (1989, c. 727, s. 4; 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(u), (v).)

**G.S. 143B-289.50. Definitions.**

- (a) As used in this part:
  - (1) "Commission" means the Marine Fisheries Commission.
  - (2) "Department" means the Department of Environmental Quality.
  - (3) "Fisheries Director" means the Director of the Division of Marine Fisheries of the Department of Environmental Quality.
  - (4) "Secretary" means the Secretary of Environmental Quality.
- (b) The definitions set out in G.S. 113-129 and G.S. 113-130 shall apply throughout this Part. (1997-400, s. 2.1; 1997-443, s. 11A.123; 2015-241, ss. 14.30(u), (v).)

**G.S. 143B-289.51. Marine Fisheries Commission - creation; purposes.**

- (a) There is hereby created the Marine Fisheries Commission in the Department of Environmental Quality.
- (b) The functions, purposes, and duties of the Marine Fisheries Commission are to:
  - (1) Manage, restore, develop, cultivate, conserve, protect, and regulate the marine and estuarine resources within its jurisdiction, as described in G.S. 113-132.
  - (2) Implement the laws relating to coastal fisheries, coastal fishing, shellfish, crustaceans, and other marine and estuarine resources enacted by the General Assembly by the adoption of rules and policies, to provide a sound, constructive, comprehensive, continuing, and economical coastal fisheries program directed by citizens who are knowledgeable in the protection, restoration, proper use, and management of marine and estuarine resources.
  - (3) Implement management measures regarding ocean and marine fisheries in the Atlantic Ocean consistent with the authority conferred on the State by the United States.
  - (4) Advise the State regarding ocean and marine fisheries within the jurisdiction of the Atlantic States Marine Fisheries Compact, the South Atlantic Fishery Management Council, the Mid-Atlantic Fishery Management Council, and other similar organizations established to manage or regulate fishing in the Atlantic Ocean. (1997-400, s. 2.1; 1997-443, s. 11A.119(b); 2015-241, s. 14.30(u).)

**G.S. 143B-289.52. Marine Fisheries Commission - powers and duties.**

- (a) The Marine Fisheries Commission shall adopt rules to be followed in the management, protection, preservation, and enhancement of the marine and estuarine resources within its jurisdiction, as described in G.S. 113-132, including commercial and sports fisheries resources. The Marine Fisheries Commission shall have the power and duty:
  - (1) To authorize, license, regulate, prohibit, prescribe, or restrict all forms of marine and estuarine resources in coastal fishing waters with respect to:
    - a. Time, place, character, or dimensions of any methods or equipment that may be employed in taking fish.
    - b. Seasons for taking fish.
    - c. Size limits on and maximum quantities of fish that may be taken, possessed, bailed to another, transported, bought, sold, or given away.
  - (2) To provide fair regulation of commercial and recreational fishing groups in the interest of the public.
  - (3) To adopt rules and take all steps necessary to develop and improve mariculture, including the cultivation, harvesting, and marketing of shellfish and other marine resources in the State, involving the use of public grounds and private beds as provided in G.S. 113-201.
  - (4) To close areas of public bottoms under coastal fishing waters for such time as may be necessary in any program of propagation of shellfish as provided in G.S. 113-204.
  - (5) In the interest of conservation of the marine and estuarine resources of the State, to institute an action in the superior court to contest the claim of title or claimed right of fishery in any navigable waters of the State registered with the Department as provided in G.S. 113-206(d).
  - (6) To make reciprocal agreements with other jurisdictions respecting any of the matters governed in this Subchapter as provided by G.S. 113-223.
  - (7) To adopt relevant provisions of federal laws and regulations as State rules pursuant to G.S. 113-228.
  - (8) To delegate to the Fisheries Director the authority by proclamation to suspend or implement, in whole or in part, a particular rule of the Commission that may be affected by variable conditions as provided in G.S. 113-221.1.
  - (9) To comment on and otherwise participate in the determination of permit applications received by State agencies that may have an effect on the marine and estuarine resources of the State.

- (10) To adopt Fishery Management Plans as provided in G.S. 113-182.1, to establish a Priority List to determine the order in which Fishery Management Plans are developed, to establish a Schedule for the development and adoption of each Fishery Management Plan, and to establish guidance criteria as to the contents of Fishery Management Plans.
  - (11) To approve Coastal Habitat Protection Plans as provided in G.S. 143B-279.8.
  - (12) Except as may otherwise be provided, to make the final agency decision in all contested cases involving matters within the jurisdiction of the Commission.
  - (13) To adopt rules to define fishing gear as either recreational gear or commercial gear.
- (b) The Marine Fisheries Commission shall have the power and duty to establish standards and adopt rules:
- (1) To implement the provisions of Subchapter IV of Chapter 113 as provided in G.S. 113-134.
  - (2) To manage the disposition of confiscated property as set forth in G.S. 113-137.
  - (3) To govern all license requirements prescribed in Article 14A of Chapter 113 of the General Statutes.
  - (4) To regulate the importation and exportation of fish, and equipment that may be used in taking or processing fish, as necessary to enhance the conservation of marine and estuarine resources of the State as provided in G.S. 113-170.
  - (5) To regulate the possession, transportation, and disposition of seafood, as provided in G.S. 113-170.4.
  - (6) To regulate the disposition of the young of edible fish, as provided by G.S. 113-185.
  - (7) To manage the leasing of public grounds for mariculture, including oysters and clam production, as provided in G.S. 113-202.
  - (8) To govern the utilization of private fisheries, as provided in G.S. 113-205.
  - (9) To impose further restrictions upon the throwing of fish offal in any coastal fishing waters, as provided in G.S. 113-265.
  - (10) To regulate the location and utilization of artificial reefs in coastal waters.
  - (11) To regulate the placement of nets and other sports or commercial fishing apparatus in coastal fishing waters with regard to navigational or recreational safety as well as from a conservation standpoint.
- (c) The Commission is authorized to authorize, license, prohibit, prescribe, or restrict:
- (1) The opening and closing of coastal fishing waters, except as to inland game fish, whether entirely or only as to the taking of particular classes of fish, use of particular equipment, or as to other activities.
  - (2) The possession, cultivation, transportation, importation, exportation, sale, purchase, acquisition, and disposition of all marine and estuarine resources and all related equipment, implements, vessels, and conveyances as necessary to carry out its duties.
- (d) The Commission may adopt rules required by the federal government for grants-in-aid for coastal resource purposes that may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from federal grants-in-aid.
- (d1) The Commission may regulate participation in a fishery that is subject to a federal fishery management plan if that plan imposes a quota on the State for the harvest or landing of fish in the fishery. The Commission may use any additional criteria aside from holding a Standard Commercial Fishing License to develop limited-entry fisheries. The Commission may establish a fee for each license established pursuant to this subsection in an amount that does not exceed five hundred dollars (\$500.00).
- (d2) To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid.
- (e) The Commission may adopt rules to implement or comply with a fishery management plan adopted by the Atlantic States Marine Fisheries Commission or adopted by the United States Secretary of Commerce pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801, et seq. Notwithstanding G.S. 150B-21.1(a), the Commission may adopt temporary rules under this subsection at any time within six months of the adoption or amendment of a fishery management plan or the notification of a change in management measures needed to remain in compliance with a fishery management plan.
- (e1) A supermajority of the Commission shall be six members. A supermajority shall be necessary to override recommendations from the Division of Marine Fisheries regarding measures needed to end overfishing or to rebuild overfished stocks.
- (f) The Commission shall adopt rules as provided in this Chapter. All rules adopted by the Commission shall be enforced by the Department of Environmental Quality.
- (g) As a quasi-judicial agency, the Commission, in accordance with Article IV, Section 3 of the Constitution of North Carolina, has those judicial powers reasonably necessary to accomplish the purposes for which it was created.
- (h) Social security numbers and identifying information obtained by the Commission or the Division of Marine Fisheries shall be treated as provided in G.S. 132-1.10. For purposes of this subsection, "identifying information" also includes a person's mailing address, residence address, e-mail address, Commission-issued customer identification number, date of birth, and telephone number.

(i) The Commission may adopt rules to exempt individuals who participate in organized fishing events held in coastal or joint fishing waters from recreational fishing license requirements for the specified time and place of the event when the purpose of the event is consistent with the conservation objectives of the Commission. (1997-400, ss. 2.1, 2.2; 1997-443, s. 11A.123; 1998-217, s. 18(a); 1998-225, ss. 1.3, 1.4, 1.5; 2001-474, s. 32; 2003-154, s. 3; 2004-187, ss. 7, 8; 2006-255, ss. 11.2, 12; 2012-190, s. 5; 2012-200, s. 17; 2013-360, ss. 14.8(v), 14.8(w); 2015-241, s. 14.30(u); 2017-10, s. 2.1(b).)

**G.S. 143B-289.53. Marine Fisheries Commission - quasi-judicial powers; procedures.**

(a) With respect to those matters within its jurisdiction, the Marine Fisheries Commission shall exercise quasi-judicial powers in accordance with the provisions of Chapter 150B of the General Statutes. This section and any rules adopted by the Marine Fisheries Commission shall govern the following proceedings:

- (1) Exceptions to recommended decisions in contested cases shall be filed with the Secretary within 30 days of the receipt by the Secretary of the official record from the Office of Administrative Hearings, unless additional time is allowed by the Chair of the Commission.
- (2) Oral arguments by the parties may be allowed by the Chair of the Commission upon request of the parties.
- (3) Deliberations of the Commission shall be conducted in its public meeting unless the Commission determines that consultation with its counsel should be held in a closed session pursuant to G.S. 143-318.11.

(b) The final agency decision in contested cases that arise from civil penalty assessments shall be made by the Commission. In the evaluation of each violation, the Commission shall recognize that harm to the marine and estuarine resources within its jurisdiction, as described in G.S. 113-132, arising from the violation of a statute or rule enacted or adopted to protect those resources may be immediately observed through damaged resources or may be incremental or cumulative with no damage that can be immediately observed or documented. Penalties up to the maximum authorized may be based on any one or combination of the following factors:

- (1) The degree and extent of harm to the marine and estuarine resources within the jurisdiction of the Commission, as described in G.S. 113-132; to the public health; or to private property resulting from the violation.
- (2) The frequency and gravity of the violation.
- (3) The cost of rectifying the damage.
- (4) Whether the violation was committed willfully or intentionally.
- (5) The prior record of the violator in complying or failing to comply with programs over which the Marine Fisheries Commission has regulatory authority.
- (6) The cost to the State of the enforcement procedures.

(c) The Chair shall appoint a Committee on Civil Penalty Remissions from the members of the Commission. No member of the Committee on Civil Penalty Remissions may hear or vote on any matter in which the member has an economic interest. The Committee on Civil Penalty Remissions shall make the final agency decision on remission requests. In determining whether a remission request will be approved, the Committee shall consider the recommendation of the Secretary and the following factors:

- (1) Whether one or more of the civil penalty assessment factors in subsection (b) of this section were wrongly applied to the detriment of the petitioner.
- (2) Whether the violator promptly abated continuing environmental damage resulting from the violation.
- (3) Whether the violation was inadvertent.
- (4) Whether the violator had been assessed civil penalties for any previous violations.
- (5) Whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

(d) The Committee on Civil Penalty Remissions may remit the entire amount of the penalty only when the violator has not been assessed civil penalties for previous violations and when payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

(e) If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary of Environmental Quality shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment.

(f) The Secretary may delegate his powers and duties under this section to the Fisheries Director. (1997-400, s. 2.1; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(v).)

**G.S. 143B-289.54. Marine Fisheries Commission - members; appointment; term; oath; ethical standards; removal; compensation; staff.**

(a) **Members, Selection.** - The Marine Fisheries Commission shall consist of nine members appointed by the Governor as follows:

- (1) One person actively engaged in, or recently retired from, commercial fishing as demonstrated by currently or recently deriving at least fifty percent (50%) of annual earned income from taking and selling fishery resources in coastal fishing waters of the State. The spouse of a commercial fisherman who meets the criteria of this subdivision may be appointed under this subdivision.
- (2) One person actively engaged in, or recently retired from, commercial fishing as demonstrated by currently or recently deriving at least fifty percent (50%) of annual earned income from taking and selling fishery resources in coastal fishing waters of the State. The spouse of a commercial fisherman who meets the criteria of this subdivision may be appointed under this subdivision.
- (3) One person actively connected with, and experienced as, a licensed fish dealer or in seafood processing or distribution as demonstrated by deriving at least fifty percent (50%) of annual earned income from activities involving the buying, selling, processing, or distribution of seafood landed in this State. The spouse of a person qualified under this subdivision may be appointed provided that the spouse is actively involved in the qualifying business.
- (4) One person actively engaged in recreational sports fishing in coastal waters in this State. An appointee under this subdivision may not derive more than ten percent (10%) of annual earned income from sports fishing activities.
- (5) One person actively engaged in recreational sports fishing in coastal waters in this State. An appointee under this subdivision may not derive more than ten percent (10%) of annual earned income from sports fishing activities.
- (6) One person actively engaged in the sports fishing industry as demonstrated by deriving at least fifty percent (50%) of annual earned income from selling goods or services in this State. The spouse of a person qualified under this subdivision may be appointed provided that the spouse is actively involved in the qualifying business.
- (7) One person having general knowledge of and experience related to subjects and persons regulated by the Commission.
- (8) One person having general knowledge of and experience related to subjects and persons regulated by the Commission.
- (9) One person who is a fisheries scientist having special training and expertise in marine and estuarine fisheries biology, ecology, population dynamics, water quality, habitat protection, or similar knowledge. A person appointed under this subdivision may not receive more than ten percent (10%) of annual earned income from either the commercial or sports fishing industries, including the processing and distribution of seafood.

(b) Residential Qualifications. - For purposes of providing regional representation on the Commission, the following three coastal regions of the State are designated: (i) Northeast Coastal Region comprised of Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax, Hertford, Martin, Northampton, Pasquotank, Perquimans, Tyrrell, and Washington Counties; (ii) Central Coastal Region comprised of Beaufort, Carteret, Craven, Hyde, Jones, and Pamlico Counties; and (iii) Southeast Coastal Region comprised of Bladen, Brunswick, Columbus, New Hanover, Onslow, and Pender Counties. Persons appointed under subdivisions (1), (2), (3), (4), and (8) of subsection (a) of this section shall be residents of one of the coastal regions of the State. The membership of the Commission shall include at least one person who is a resident of each of the three coastal regions of the State.

(c) Additional Considerations. - In making appointments to the Commission, the Governor shall provide for appropriate representation of women and minorities on the Commission.

(d) Terms. - The term of office of members of the Commission is three years. A member may be reappointed to any number of successive three-year terms. Upon the expiration of a three-year term, a member shall continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7. The term of members appointed under subdivisions (1), (4), and (7) of subsection (a) of this section shall expire on 30 June of years evenly divisible by three. The term of members appointed under subdivisions (2), (5), and (8) of subsection (a) of this section shall expire on 30 June of years that precede by one year those years that are evenly divisible by three. The term of members appointed under subdivisions (3), (6), and (9) of subsection (a) of this section shall expire on 30 June of years that follow by one year those years that are evenly divisible by three.

(e) Vacancies. - An appointment to fill a vacancy shall be for the unexpired balance of the term.

(f) Oath of Office. - Each member of the Commission, before assuming the duties of office, shall take an oath of office as provided in Chapter 11 of the General Statutes.

(g) Ethical Standards. -

- (1) Disclosure statements. - Any person under consideration for appointment to the Commission shall provide both a financial disclosure statement and a potential bias disclosure statement to the Governor. A financial disclosure statement shall include statements of the nominee's financial interests in and related to State fishery resources use, licenses issued by the Division of Marine Fisheries held by the nominee or any business in which the nominee has a financial interest, and uses made by the nominee or by any business in which the nominee has a financial interest of the

regulated resources. A potential bias disclosure statement shall include a statement of the nominee's membership or other affiliation with, including offices held, in societies, organizations, or advocacy groups pertaining to the management and use of the State's coastal fishery resources. Disclosure statements shall be treated as public records under Chapter 132 of the General Statutes and shall be updated on an annual basis.

- (2) Voting/conflict of interest. - A member of the Commission shall not vote on any issue before the Commission that would have a "significant and predictable effect" on the member's financial interest. For purposes of this subdivision, "significant and predictable effect" means there is or may be a close causal link between the decision of the Commission and an expected disproportionate financial benefit to the member that is shared only by a minority of persons within the same industry sector or gear group. A member of the Commission shall also abstain from voting on any petition submitted by an advocacy group of which the member is an officer or sits as a member of the advocacy group's board of directors. A member of the Commission shall not use the member's official position as a member of the Commission to secure any special privilege or exemption of substantial value for any person. No member of the Commission shall, by the member's conduct, create an appearance that any person could improperly influence the member in the performance of the member's official duties.
- (3) Regular attendance. - It shall be the duty of each member of the Commission to regularly attend meetings of the Commission.
  - (h) Removal. - The Governor may remove, as provided in G.S. 143B-13, any member of the Commission for misfeasance, malfeasance, or nonfeasance.
  - (i) Office May Be Held Concurrently With Others. - The office of member of the Marine Fisheries Commission may be held concurrently with any other elected or appointed office, as authorized by Article VI, Section 9, of the Constitution of North Carolina.
  - (j) Compensation. - Members of the Commission who are State officers or employees shall receive no per diem compensation for serving on the Commission, but shall be reimbursed for their expenses in accordance with G.S. 138-6. Members of the Commission who are full-time salaried public officers or employees other than State officers or employees shall receive no per diem compensation for serving on the Commission, but shall be reimbursed for their expenses in accordance with G.S. 138-6 in the same manner as State officers or employees. All other Commission members shall receive per diem compensation and reimbursement in accordance with the compensation rate established in G.S. 93B-5.
  - (k) Staff. - All clerical and other services required by the Commission shall be supplied by the Fisheries Director and the Department.
  - (l) Legal Services. - The Attorney General shall: (i) act as attorney for the Commission; (ii) at the request of the Commission, initiate actions in the name of the Commission; and (iii) represent the Commission in any appeal or other review of any order of the Commission.
  - (m) Transparency. - The Commission shall establish official e-mail accounts for all Commission members. These e-mail accounts shall be used for all electronic communications related to the work of the Commission and those communications shall be considered public records under Chapter 132 of the General Statutes. Other than routine communication sent from Division staff to all Commission members, electronic communications among a majority of the Commission shall be an "official meeting" as defined in Article 33C of Chapter 143 of the General Statutes. Failure to comply with this subsection shall be subject to investigation by the State Ethics Commission as unethical conduct and removal under subsection (h) of this section as misfeasance. Nothing in this subsection is intended to limit or eliminate any privilege existing at common law or under statute. (1997-400, s. 2.1; 1998-225, ss. 1.6, 1.7; 2001-213, s. 5; 2013-360, s. 14.7(b); 2017-6, s. 3; 2017-190, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

**G.S. 143B-289.55. Marine Fisheries Commission - officers; organization; seal.**

- (a) The Governor shall appoint a member of the Commission to serve as Chair. The Chair shall serve at the pleasure of the Governor. The Commission shall elect one of its members to serve as Vice-Chair. The Vice-Chair shall serve a one-year term beginning 1 July and ending 30 June of the following year. The Vice-Chair may serve any number of consecutive terms.
- (b) The Chair shall guide and coordinate the activities of the Commission in fulfilling its duties as set out in this Article. The Chair shall report to and advise the Governor and the Secretary on the activities of the Commission, on marine and estuarine conservation matters, and on all marine fisheries matters.
- (c) The Commission shall determine its organization and procedure in accordance with the provisions of this Article. The provisions of the most recent edition of Robert's Rules of Order shall govern any procedural matter for which no other provision has been made.
- (d) The Commission may adopt a common seal and may alter it as necessary. (1997-400, s. 2.1.)

**G.S. 143B-289.56. Marine Fisheries Commission - meetings; quorum.**

- (a) The Commission shall meet at least once each calendar quarter and may hold additional meetings at any time and place within the State at the call of the Chair or upon the written request of at least four members. At least three of the four quarterly meetings of the Commission shall be held in one of the coastal regions designated in G.S. 143B-289.54.
- (b)
  - (1) Six members of the Commission shall constitute a quorum for the transaction of business.
  - (2) A quorum of the Commission may transact business only if one member, other than the Chair, appointed pursuant to subdivision (1), (2), or (3) of G.S. 143B-289.54(a) and one member, other than the Chair, appointed pursuant to subdivision (4), (5), or (6) of G.S. 143B-289.54(a) are present.
- (c) If the Commission is unable to transact business because the requirements of subdivision (2) of subsection (b) of this section are not met, the Chair shall call another meeting of the Commission within 30 days and shall place on the agenda for that meeting every matter with respect to which the Commission was unable to transact business. Five members of the Commission shall constitute a quorum for the transaction of business at a meeting called under this subsection. The requirements of subdivision (2) of subsection (b) of this section shall not apply to a meeting called under this subsection. (1997-400, s. 2.1; 1998-225, s. 1.8.)

**G.S. 143B-289.57. Marine Fisheries Commission Advisory Committees established; members; selection; duties.**

- (a) The Commission shall be assisted in the performance of its duties by four standing advisory committees and four regional advisory committees. Each standing and regional advisory committee shall consist of no more than 11 members. The Chair of the Commission shall designate one member of each advisory committee to serve as Chair of the committee. Members shall serve staggered three-year terms as determined by the Commission. The Commission shall establish other policies and procedures for standing and regional advisory committees that are consistent with those governing the Commission as set out in this Part.
- (b) The Chair of the Commission shall appoint the following standing advisory committees:
  - (1) The Finfish Committee, which shall consider matters concerning finfish.
  - (2), (3) Repealed by Session Laws 2012-190, s. 4(a), and Session Laws 2012-200, s. 16(a), effective July 1, 2012.
  - (3a) The Shellfish/Crustacean Advisory Committee, which shall consider matters concerning oysters, clams, scallops, other molluscan shellfish, shrimp, and crabs.
  - (4) The Habitat and Water Quality Committee, which shall consider matters concerning habitat and water quality that may affect coastal fisheries resources.
- (c) Each standing advisory committee shall be composed of commercial and recreational fishermen, scientists, and other persons who have expertise in the matters to be considered by the advisory committee to which they are appointed. In making appointments to advisory committees, the Chair of the Commission shall ensure that both commercial and recreational fishing interests are fairly represented and shall consider for appointment persons who are recommended by groups representing commercial fishing interests, recreational fishing interests, environmental protection and conservation interests, and other groups interested in coastal fisheries management.
- (d) Each standing advisory committee shall review all matters referred to the committee by the Commission and shall make findings and recommendations on these matters. A standing advisory committee may, on its own motion, make findings and recommendations as to any matter related to its subject area. The Commission, in the performance of its duties, shall consider all findings and recommendations submitted by standing advisory committees.
- (e) The Chair of the Commission shall appoint a Northern Regional Advisory Committee, encompassing areas from the Virginia line south through Hyde and Pamlico Counties and any counties to the west, and a Southern Regional Advisory Committee, encompassing areas from Carteret County south to the South Carolina line and any counties to the west. In making appointments to regional advisory committees, the Chair of the Commission shall ensure that both commercial and recreational fishing interests are fairly represented.
- (f) The Chair of the Commission shall appoint a three-member Shellfish Cultivation Lease Review Committee to hear appeals of decisions of the Secretary regarding shellfish cultivation leases issued under G.S. 113-202. The Committee shall include one Commission member, who shall serve as the hearing officer, and two public members. One public member shall have expertise or other relevant experience in shellfish aquaculture, and the other public member shall have expertise or other relevant experience with respect to coastal property or property assessment. The Commission shall adopt rules to establish procedures for the appeals and may adopt temporary rules. (1997-400, s. 2.1; 2012-190, s. 4(a); 2012-200, s. 16(a); 2019-37, s. 6(a).)

**G.S. 143B-289.59. Conservation Fund; Commission may accept gifts.**

- (a) The Marine Fisheries Commission may accept gifts, donations, or contributions from any sources. These funds shall be held in a separate account and used solely for the purposes of marine and estuarine conservation and management. These funds shall be administered by the Marine Fisheries Commission and shall be used for marine

- and estuarine resources management, including education about the importance of conservation, in a manner consistent with marine and estuarine conservation management principles.
- (b) The Marine Fisheries Commission is hereby authorized to issue and sell appropriate emblems by which to identify recipients thereof as contributors to a special marine and estuarine resources Conservation Fund that shall be made available to the Marine Fisheries Commission for conservation, protection, enhancement, preservation, and perpetuation of marine and estuarine species that may be endangered or threatened with extinction and for education about these issues. The special Conservation Fund is subject to oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes, except that interest and other income received on the Fund balance shall be treated as set forth in G.S. 147-69.1(d). Emblems of different sizes, shapes, types, or designs may be used to recognize contributions in different amounts, but no emblem shall be issued for a contribution amounting in value to less than five dollars (\$5.00). (1997-400, s. 2.1; 2014-100, s. 14.21(a).)

**G.S. 143B-289.60. Article subject to Chapter 113.**

Nothing in this Article shall be construed to affect the jurisdictional division between the Marine Fisheries Commission and the Wildlife Resources Commission contained in Subchapter IV of Chapter 113 of the General Statutes or in any way to alter or abridge the powers and duties of the two agencies conferred in that Subchapter. (1997-400, s. 2.1.)

**G.S. 143B-289.61. Jurisdictional questions.**

In the event of any question arising between the Wildlife Resources Commission and the Marine Fisheries Commission or between the Department of Environmental Quality and the Marine Fisheries Commission as to any duty, responsibility, or authority imposed upon any of these bodies by law or with respect to conflict involving rules or administrative practices, the question or conflict shall be resolved by the Governor, whose decision shall be binding. (1997-400, s. 2.1; 1997-443, s. 11A.123; 1997-443, s. 11A.123; 2015-241, s. 14.30(u).)

**G.S. 146-64. Definitions.**

As used in this Chapter:

- (1) "Acquired lands" means all State lands, title to which has been acquired by the State or by any State agency by purchase, devise, gift, condemnation, or adverse possession.
- (2) "Escheated lands" means all State lands, title to which has been acquired by escheat.
- (3) "Land" means real property, buildings, space in buildings, timber rights, mineral rights, rights-of-way, easements, options, and all other rights, estates, and interests in real property.
- (4) "Navigable waters" means all waters which are navigable in fact.
- (5) "State agency" includes every agency, institution, board, commission, bureau, council, department, division, officer, and employee of the State, but does not include counties, municipal corporations, political subdivisions of the State, county or city boards of education, or other local public bodies. The term "State agency" does not include any private corporation created by act of the General Assembly. In case of doubt as to whether a particular agency, corporation, or institution is a State agency for the purposes of this Chapter, the Attorney General, upon request of the Governor and Council of State, shall make a determination of the issue. Upon a finding by the Attorney General that an agency, corporation, or institution is not a State agency for the purpose of this Chapter, the Governor and Council of State may execute a deed or other appropriate instrument releasing and quitclaiming all title and interest of the State in the lands of that agency, corporation, or institution.
- (6) "State lands" means all land and interests therein, title to which is vested in the State of North Carolina, or in any State agency, or in the State to the use of any agency, and specifically includes all vacant and unappropriated lands, swamplands, submerged lands, lands acquired by the State by virtue of being sold for taxes, escheated lands, and acquired lands.
- (7) "Submerged lands" means State lands which lie beneath
  - a. Any navigable waters within the boundaries of this State, or
  - b. The Atlantic Ocean to a distance of three geographical miles seaward from the coastline of this State.
- (8) "Swamplands" means lands too wet for cultivation except by drainage, and includes
  - a. All State lands which have been or are known as "swamp" or "marsh" lands, "pocosin bay," "briary bay" or "savanna," and which are a part of one swamp exceeding 2,000 acres in area, or which are a part of one swamp 2,000 acres or less in area which has been surveyed by the State; and
  - b. All State lands which are covered by the waters of any state-owned lake or pond.
- (9) "Vacant and unappropriated lands" means all State lands title to which is vested in the State as sovereign, and land acquired by the State by virtue of being sold for taxes, except swamplands.
- (10) For purposes of this Subchapter, "deep water" means the depth reasonably necessary to provide and allow reasonable access for all vessels traditionally used in the main watercourse area as of the time of

the initial easement application. (1854-5, c. 21; R.C., c. 42, s. 1; Code, s. 2751; 1891, c. 302; Rev., ss. 1693, 1695; C.S., ss. 7540, 7542; G.S., ss. 146-1, 146-4; 1959, c. 683, s. 1; 1969, c. 1164; 1995, c. 529, s. 4; 2009-484, s. 10.)

**G.S. 150B-3. Special provisions on licensing.**

- (a) When an applicant or a licensee makes a timely and sufficient application for issuance or renewal of a license or occupational license, including the payment of any required license fee, the existing license or occupational license does not expire until a decision on the application is finally made by the agency, and if the application is denied or the terms of the new license or occupational license are limited, until the last day for applying for judicial review of the agency order. This subsection does not affect agency action summarily suspending a license or occupational license under subsections (b) and (c) of this section.
- (b) Before the commencement of proceedings for the suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of any license other than an occupational license, the agency shall give notice to the licensee, pursuant to the provisions of G.S. 150B-23. Before the commencement of such proceedings involving an occupational license, the agency shall give notice pursuant to the provisions of G.S. 150B-38. In either case, the licensee shall be given an opportunity to show compliance with all lawful requirements for retention of the license or occupational license.
- (c) If the agency finds that the public health, safety, or welfare requires emergency action and incorporates this finding in its order, summary suspension of a license or occupational license may be ordered effective on the date specified in the order or on service of the certified copy of the order at the last known address of the licensee, whichever is later, and effective during the proceedings. The proceedings shall be promptly commenced and determined.  
Nothing in this subsection shall be construed as amending or repealing any special statutes, in effect prior to February 1, 1976, which provide for the summary suspension of a license.
- (d) This section does not apply to the following:
  - (1) Revocations of occupational licenses based solely on a court order of child support delinquency or a Department of Health and Human Services determination of child support delinquency issued pursuant to G.S. 110-142, 110-142.1, or 110-142.2.
  - (2) Refusal to renew an occupational license pursuant to G.S. 87-10.1, 87-22.2, 87-44.2, or 89C-18.1, based solely on a Department of Revenue determination that the licensee owes a delinquent income tax debt. (1973, c. 1331, s. 1; 1985, c. 746, s. 1; 1995, c. 538, s. 2(i); 1997-443, s. 11A.118(a); 1998-162, s. 8.)

**G.S. 150B-4. Declaratory rulings.**

- (a) On request of a person aggrieved, an agency shall issue a declaratory ruling as to the validity of a rule or as to the applicability to a given state of facts of a statute administered by the agency or of a rule or order of the agency. Upon request, an agency shall also issue a declaratory ruling to resolve a conflict or inconsistency within the agency regarding an interpretation of the law or a rule adopted by the agency. The agency shall prescribe in its rules the procedure for requesting a declaratory ruling and the circumstances in which rulings shall or shall not be issued. A declaratory ruling is binding on the agency and the person requesting it unless it is altered or set aside by the court. An agency may not retroactively change a declaratory ruling, but nothing in this section prevents an agency from prospectively changing a declaratory ruling.
- (a1) An agency shall respond to a request for a declaratory ruling as follows:
  - (1) Within 30 days of receipt of the request for a declaratory ruling, the agency shall make a written decision to grant or deny the request. If the agency fails to make a written decision to grant or deny the request within 30 days, the failure shall be deemed a decision to deny the request.
  - (2) If the agency denies the request, the decision is immediately subject to judicial review in accordance with Article 4 of this Chapter.
  - (3) If the agency grants the request, the agency shall issue a written ruling on the merits within 45 days of the decision to grant the request. A declaratory ruling is subject to judicial review in accordance with Article 4 of this Chapter.
  - (4) If the agency fails to issue a declaratory ruling within 45 days, the failure shall be deemed a denial on the merits, and the person aggrieved may seek judicial review pursuant to Article 4 of this Chapter. Upon review of an agency's failure to issue a declaratory ruling, the court shall not consider any basis for the denial that was not presented in writing to the person aggrieved.
- (b) Repealed by Session Laws 1997-34, s. 1. (1973, c. 1331, s. 1; 1985, c. 746, s. 1; 1991, c. 418, s. 4; c. 477, s. 2.1; 1997-34, s. 1; 2011-398, s. 56.)

**G.S. 150B-19. Restrictions on what can be adopted as a rule.**

An agency may not adopt a rule that does one or more of the following:

- (1) Implements or interprets a law unless that law or another law specifically authorizes the agency to do so.
- (2) Enlarges the scope of a profession, occupation, or field of endeavor for which an occupational license is required.
- (3) Imposes criminal liability or a civil penalty for an act or omission, including the violation of a rule, unless a law specifically authorizes the agency to do so or a law declares that violation of the rule is a criminal offense or is grounds for a civil penalty.
- (4) Repeats the content of a law, a rule, or a federal regulation. A brief statement that informs the public of a requirement imposed by law does not violate this subdivision and satisfies the "reasonably necessary" standard of review set in G.S. 150B-21.9(a)(3).
- (5) Establishes a fee or other charge for providing a service in fulfillment of a duty unless a law specifically authorizes the agency to do so or the fee or other charge is for one of the following:
  - a. A service to a State, federal, or local governmental unit.
  - b. A copy of part or all of a State publication or other document, the cost of mailing a document, or both.
  - c. A transcript of a public hearing.
  - d. A conference, workshop, or course.
  - e. Data processing services.
- (6) Allows the agency to waive or modify a requirement set in a rule unless a rule establishes specific guidelines the agency must follow in determining whether to waive or modify the requirement.
- (7) Repealed by Session Laws 2011-398, s. 61.2, effective July 25, 2011. (1973, c. 1331, s. 1; 1985, c. 746, s. 1; 1991, c. 418, s. 1; 1996, 2nd Ex. Sess., c. 18, s. 7.10(a); 2011-13, s. 1; 2011-398, s. 61.2.)

**G.S. 150B-19.1. Requirements for agencies in the rule-making process.**

(a) In developing and drafting rules for adoption in accordance with this Article, agencies shall adhere to the following principles:

- (1) An agency may adopt only rules that are expressly authorized by federal or State law and that are necessary to serve the public interest.
- (2) An agency shall seek to reduce the burden upon those persons or entities who must comply with the rule.
- (3) Rules shall be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or State law.
- (4) An agency shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed. The agency shall not adopt a rule that is unnecessary or redundant.
- (5) When appropriate, rules shall be based on sound, reasonably available scientific, technical, economic, and other relevant information. Agencies shall include a reference to this information in the notice of text required by G.S. 150B-21.2(c).
- (6) Rules shall be designed to achieve the regulatory objective in a cost-effective and timely manner.

(b) Each agency subject to this Article shall conduct an annual review of its rules to identify existing rules that are unnecessary, unduly burdensome, or inconsistent with the principles set forth in subsection (a) of this section. The agency shall repeal any rule identified by this review.

(c) Each agency subject to this Article shall post on its Web site, no later than the publication date of the notice of text in the North Carolina Register, all of the following:

- (1) The text of a proposed rule.
- (2) An explanation of the proposed rule and the reason for the proposed rule.
- (3) The federal certification required by subsection (g) of this section.
- (4) Instructions on how and where to submit oral or written comments on the proposed rule, including a description of the procedure by which a person can object to a proposed rule and subject the proposed rule to legislative review.
- (5) Any fiscal note that has been prepared for the proposed rule.

If an agency proposes any change to a rule or fiscal note prior to the date it proposes to adopt a rule, the agency shall publish the proposed change on its Web site as soon as practicable after the change is drafted. If an agency's staff proposes any such change to be presented to the rule-making agency, the staff shall publish the proposed change on the agency's Web site as soon as practicable after the change is drafted.

(d) Each agency shall determine whether its policies and programs overlap with the policies and programs of another agency. In the event two or more agencies' policies and programs overlap, the agencies shall coordinate the rules adopted by each agency to avoid unnecessary, unduly burdensome, or inconsistent rules.

(e) Each agency shall quantify the costs and benefits to all parties of a proposed rule to the greatest extent possible. Prior to submission of a proposed rule for publication in accordance with G.S. 150B-21.2, the agency shall review the details of any fiscal note prepared in connection with the proposed rule and approve the fiscal note before submission.

(f) If the agency determines that a proposed rule will have a substantial economic impact as defined in G.S. 150B-21.4(b1), the agency shall consider at least two alternatives to the proposed rule. The alternatives may have been identified by the agency or by members of the public.

(g) Whenever an agency proposes a rule that is purported to implement a federal law, or required by or necessary for compliance with federal law, or on which the receipt of federal funds is conditioned, the agency shall:

- (1) Prepare a certification identifying the federal law requiring adoption of the proposed rule. The certification shall contain a statement setting forth the reasons why the proposed rule is required by federal law. If all or part of the proposed rule is not required by federal law or exceeds the requirements of federal law, then the certification shall state the reasons for that opinion.
- (2) Post the certification on the agency Web site in accordance with subsection (c) of this section.
- (3) Maintain a copy of the federal law and provide to the Office of State Budget and Management the citation to the federal law requiring or pertaining to the proposed rule.

(h) Repealed by Session Laws 2014-120, s. 6(a), effective September 18, 2014, and applicable to proposed rules published on or after that date. (2011-398, s. 2; 2012-187, s. 3; 2013-143, s. 1.1; 2014-120, s. 6(a).)

#### **G.S. 150B-20. Petitioning an agency to adopt a rule.**

(a) **Petition.** - A person may petition an agency to adopt a rule by submitting to the agency a written rule-making petition requesting the adoption. A person may submit written comments with a rule-making petition. If a rule-making petition requests the agency to create or amend a rule, the person must submit the proposed text of the requested rule change and a statement of the effect of the requested rule change. Each agency must establish by rule the procedure for submitting a rule-making petition to it and the procedure the agency follows in considering a rule-making petition. An agency receiving a rule-making petition shall, within three business days of receipt of the petition, send the proposed text of the requested rule change and the statement of the effect of the requested rule change to the Office of Administrative Hearings. The Office of Administrative Hearings shall, within three business days of receipt of the proposed text of the requested rule change and the statement of the effect of the requested rule change, distribute the information via its mailing list and publish the information on its Web site.

(b) **Time.** - An agency must grant or deny a rule-making petition submitted to it within 30 days after the date the rule-making petition is submitted, unless the agency is a board or commission. If the agency is a board or commission, it must grant or deny a rule-making petition within 120 days after the date the rule-making petition is submitted.

(c) **Action.** - If an agency denies a rule-making petition, it must send the person who submitted the petition a written statement of the reasons for denying the petition. If an agency grants a rule-making petition, it must inform the person who submitted the rule-making petition of its decision and must initiate rule-making proceedings. When an agency grants a rule-making petition, the notice of text it publishes in the North Carolina Register may state that the agency is initiating rule making as the result of a rule-making petition and state the name of the person who submitted the rule-making petition. If the rule-making petition requested the creation or amendment of a rule, the notice of text the agency publishes may set out the text of the requested rule change submitted with the rule-making petition and state whether the agency endorses the proposed text.

(d) **Review.** - Denial of a rule-making petition is a final agency decision and is subject to judicial review under Article 4 of this Chapter. Failure of an agency to grant or deny a rule-making petition within the time limits set in subsection (b) is a denial of the rule-making petition.

(e) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 7.10(b). (1973, c. 1331, s. 1; 1985, c. 746, s. 1; 1991, c. 418, s. 1; c. 477, s. 2; 1996, 2nd Ex. Sess., c. 18, s. 7.10(b); 1997-34, s. 2; 2003-229, s. 1; 2017-211, s. 1(a).)

#### **G.S. 150B-21.6. Incorporating material in a rule by reference.**

An agency may incorporate the following material by reference in a rule without repeating the text of the referenced material:

- (1) Another rule or part of a rule adopted by the agency.
- (2) All or part of a code, standard, or regulation adopted by another agency, the federal government, or a generally recognized organization or association.
- (3) Repealed by Session Laws 1997-34, s. 5.

In incorporating material by reference, the agency must designate in the rule whether or not the incorporation includes subsequent amendments and editions of the referenced material. The agency can change this designation only by a subsequent rule-making proceeding. The agency must have copies of the incorporated material available for inspection and must specify in the rule both where copies of the material can be obtained and the cost on the date the rule is adopted of a copy of the material.

A statement in a rule that a rule incorporates material by reference in accordance with former G.S. 150B-14(b) is a statement that the rule does not include subsequent amendments and editions of the referenced material. A statement in a

rule that a rule incorporates material by reference in accordance with former G.S. 150B-14(c) is a statement that the rule includes subsequent amendments and editions of the referenced material. (1973, c. 1331, s. 1; 1975, 2nd Sess., c. 983, s. 64; 1981 (Reg. Sess., 1982), c. 1359, s. 5; 1983, c. 641, s. 3; c. 768, s. 19; 1985, c. 746, s. 1; 1987, c. 285, s. 13; 1991, c. 418, s. 1; 1997-34, s. 5.)

**G.S. 150B-21.22. Effect of inclusion in Code.**

Official or judicial notice can be taken of a rule in the North Carolina Administrative Code and shall be taken when appropriate. (1973, c. 1331, s. 1; 1985, c. 746, s. 1; 1991, c. 418, s. 1; 1997-34, s. 8.)

**G.S. 150B-23. Commencement; assignment of administrative law judge; hearing required; notice; intervention.**

(a) A contested case shall be commenced by paying a fee in an amount established in G.S. 150B-23.2 and by filing a petition with the Office of Administrative Hearings and, except as provided in Article 3A of this Chapter, shall be conducted by that Office. The party who files the petition shall serve a copy of the petition on all other parties and, if the dispute concerns a license, the person who holds the license. A party who files a petition shall file a certificate of service together with the petition. A petition shall be signed by a party, an attorney representing a party, or other representative of the party as may specifically be authorized by law, and, if filed by a party other than an agency, shall state facts tending to establish that the agency named as the respondent has deprived the petitioner of property, has ordered the petitioner to pay a fine or civil penalty, or has otherwise substantially prejudiced the petitioner's rights and that the agency:

- (1) Exceeded its authority or jurisdiction;
- (2) Acted erroneously;
- (3) Failed to use proper procedure;
- (4) Acted arbitrarily or capriciously; or
- (5) Failed to act as required by law or rule.

The parties in a contested case shall be given an opportunity for a hearing without undue delay. Any person aggrieved may commence a contested case hereunder.

A local government employee, applicant for employment, or former employee to whom Chapter 126 of the General Statutes applies may commence a contested case under this Article in the same manner as any other petitioner. The case shall be conducted in the same manner as other contested cases under this Article.

A business entity may represent itself using a nonattorney representative who is one or more of the following of the business entity: (i) officer, (ii) manager or member-manager, if the business entity is a limited liability company, (iii) employee whose income is reported on IRS Form W-2, if the business entity authorizes the representation in writing, or (iv) owner of the business entity, if the business entity authorizes the representation in writing and if the owner's interest in the business entity is at least twenty-five percent (25%). Authority for and prior notice of nonattorney representation shall be made in writing, under penalty of perjury, to the Office on a form provided by the Office.

(a1) Repealed by Session Laws 1985 (Regular Session, 1986), c. 1022, s. 1(9).

(a2) An administrative law judge assigned to a contested case may require a party to the case to file a prehearing statement. A party's prehearing statement must be served on all other parties to the contested case.

(a3) A Medicaid or NC Health Choice enrollee, or the enrollee's authorized representative, who appeals a notice of resolution issued by a managed care entity under Chapter 108D of the General Statutes may commence a contested case under this Article in the same manner as any other petitioner. The case shall be conducted in the same manner as other contested cases initiated by Medicaid or NC Health Choice enrollees under this Article. Solely and only for the purposes of contested cases commenced pursuant to G.S. 108D-15 by enrollees of LME/MCOs to appeal a notice of resolution issued by the LME/MCO, an LME/MCO is considered an agency as defined in G.S. 150B-2(1a). The LME/MCO shall not be considered an agency for any other purpose. When a prepaid health plan, as defined in G.S. 108D-1, other than an LME/MCO, is under contract with the Department of Health and Human Services to issue notices of resolution under Article 2 of Chapter 108D of the General Statutes, then solely and only for the purposes of contested cases commenced pursuant to G.S. 108D-15 to appeal a notice of resolution issued by the prepaid health plan, the prepaid health plan shall be considered an agency as defined in G.S. 150B-2(1a). The prepaid health plan shall not be considered an agency for any other purpose.

(a4) If an agency fails to take any required action within the time period specified by law, any person whose rights are substantially prejudiced by the agency's failure to act may commence a contested case in accordance with this section seeking an order that the agency act as required by law. If the administrative law judge finds that the agency has failed to act as required by law, the administrative law judge may order that the agency take the required action within a specified time period.

(a5) A county that appeals a decision of the Department of Health and Human Services to temporarily assume Medicaid eligibility administration in accordance with G.S. 108A-70.42 or G.S. 108A-70.50 may commence a contested case under this Article in the same manner as any other petitioner. The case shall be conducted in the same manner as other contested cases under this Article.

(b) The parties to a contested case shall be given a notice of hearing not less than 15 days before the hearing by the Office of Administrative Hearings. If prehearing statements have been filed in the case, the notice shall state the date,

hour, and place of the hearing. If prehearing statements have not been filed in the case, the notice shall state the date, hour, place, and nature of the hearing, shall list the particular sections of the statutes and rules involved, and shall give a short and plain statement of the factual allegations.

(c) Notice shall be given by one of the methods for service of process under G.S. 1A-1, Rule 4(j) or Rule 4(j3). If given by registered or certified mail, by signature confirmation as provided by the United States Postal Service, or by designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, notice shall be deemed to have been given on the delivery date appearing on the return receipt, copy of the proof of delivery provided by the United States Postal Service, or delivery receipt. If giving of notice cannot be accomplished by a method under G.S. 1A-1, Rule 4(j) or Rule 4(j3), notice shall then be given in the manner provided in G.S. 1A-1, Rule 4(j1).

(d) Any person may petition to become a party by filing a motion to intervene in the manner provided in G.S. 1A-1, Rule 24. In addition, any person interested in a contested case may intervene and participate in that proceeding to the extent deemed appropriate by the administrative law judge.

(e) All hearings under this Chapter shall be open to the public. Hearings shall be conducted in an impartial manner. Hearings shall be conducted according to the procedures set out in this Article, except to the extent and in the particulars that specific hearing procedures and time standards are governed by another statute.

(f) Unless another statute or a federal statute or regulation sets a time limitation for the filing of a petition in contested cases against a specified agency, the general limitation for the filing of a petition in a contested case is 60 days. The time limitation, whether established by another statute, federal statute, or federal regulation, or this section, shall commence when notice is given of the agency decision to all persons aggrieved who are known to the agency by personal delivery, electronic delivery, or by the placing of the notice in an official depository of the United States Postal Service wrapped in a wrapper addressed to the person at the latest address given by the person to the agency. The notice shall be in writing, and shall set forth the agency action, and shall inform the persons of the right, the procedure, and the time limit to file a contested case petition. When no informal settlement request has been received by the agency prior to issuance of the notice, any subsequent informal settlement request shall not suspend the time limitation for the filing of a petition for a contested case hearing.

(g) Where multiple licenses are required from an agency for a single activity, the Secretary or chief administrative officer of the agency may issue a written determination that the administrative decision reviewable under Article 3 of this Chapter occurs on the date the last license for the activity is issued, denied, or otherwise disposed of. The written determination of the administrative decision is not reviewable under this Article. Any licenses issued for the activity prior to the date of the last license identified in the written determination are not reviewable under this Article until the last license for the activity is issued, denied, or otherwise disposed of. A contested case challenging the last license decision for the activity may include challenges to agency decisions on any of the previous licenses required for the activity. (1973, c. 1331, s. 1; 1975, 2nd Sess., c. 983, s. 65; 1985, c. 746, s. 1; 1985 (Reg. Sess., 1986), c. 1022, ss. 1(9), (10), 6(2), (3); 1987, c. 878, ss. 3-5; c. 879, s. 6.1; 1987 (Reg. Sess., 1988), c. 1111, s. 5; 1991, c. 35, s. 1; 1993 (Reg. Sess., 1994), c. 572, s. 2; 2009-451, s. 21A.1(a); 2011-332, s. 2.1; 2011-398, s. 16; 2012-187, s. 6; 2013-397, s. 4; 2014-120, ss. 7(a), 48, 59(a); 2016-94, s. 12H.17(c); 2017-57, s. 11H.22(d); 2018-114, s. 1; 2019-81, s. 11.)

SELECTED NORTH CAROLINA SESSION LAWS

NORTH CAROLINA GENERAL ASSEMBLY  
1967 SESSION

CHAPTER 876  
HOUSE BILL 1137

AN ACT PROVIDING FOR THE LEASE OF STATE-OWNED BOTTOMS FOR OYSTER AND CLAM CULTIVATION.

The General Assembly of North Carolina do enact:

**Section 1.** There is hereby enacted a statute to be codified as G.S. 113-202 and to read as follows:

...

**Sec. 2.** This Act shall not apply to Brunswick County.

**Sec. 3.** All laws and clauses of laws in conflict with this Act are hereby repealed.

**Sec. 4.** This Act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 21<sup>st</sup> day of June, 1967.

GENERAL ASSEMBLY OF NORTH CAROLINA  
1995 SESSION

CHAPTER 547  
HOUSE BILL 1074

AN ACT TO PROHIBIT THE ISSUANCE OF NEW SHELLFISH CULTIVATION LEASES IN CORE BANKS, TO ESTABLISH A MORATORIUM ON SHELLFISH LEASES IN THE REMAINING AREA IN CARTERET COUNTY, AND TO REQUIRE THAT THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE STUDY THE SHELLFISH LEASE PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. (a) Notwithstanding G.S. 113-202, the Secretary of the Department of Environment, Health, and Natural Resources shall not grant shellfish cultivation leases for the area along Portsmouth Island and Core Banks in Carteret County.

(b) For purposes of this act the area along Portsmouth Island and Core Banks is the area bounded by a line beginning at the northern tip of Portsmouth Island at 35°03'42"N - 76°02'06"W and running 339°M to a point on North Rock at 35°06'18"N - 76°04'00"W, thence 243°M to Hodges Reef Light at 35°02'42"N - 76°10'00"W, thence, 229.5°M to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N - 76°29'00"W, thence, 207°M to the Cape Lookout Lighthouse at 34°37'24"N - 76°31'30"W, thence enclosed on the east by Core Banks and Portsmouth Island back to the point of beginning.

Sec. 2. This act does not prohibit the renewal or transfer of shellfish cultivation leases in Core Sound in accordance with G.S. 113-202 if the lease being renewed or transferred existed prior to or on the effective date of this act.

Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation leases shall be imposed in the remaining area of Carteret County not described in Section 1 of this act. During the moratorium, a comprehensive study of the shellfish lease program shall be conducted. The moratorium established under this section shall expire July 1, 1997.

Sec. 4. The Joint Legislative Commission on Seafood and Aquaculture shall study the shellfish lease program and shall consider the following issues: (i) preservation of areas used substantially by commercial and recreational fishermen; (ii) establishment of a maximum percentage of available water body for leases; (iii) restrictions on shellfish lease sizes and whether leases may be contiguous; (iv) production requirements; (v) evaluation of profitability of leases after period of time; and (vi) any other related issues. The Joint Legislative Commission shall report its findings and recommendations to the 1997 General Assembly.

Sec. 5. This act is effective May 1, 1996, and applies to any pending shellfish cultivation application or lease. In the General Assembly read three times and ratified this the 23rd day of May, 1996.

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Dennis A. Wicker  
President of the Senate

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Harold J. Brubaker  
Speaker of the House of Representatives

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**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1997**

**SESSION LAW 1998-225  
HOUSE BILL 1448**  
[Sections 4.24 and 5.6 only]

AN ACT TO AMEND THE FISHERIES REFORM ACT OF 1997 AND RELATED MARINE FISHERIES LAWS AND TO RECOGNIZE THE COMMON LAW RIGHT OF THE PUBLIC TO THE CUSTOMARY FREE USE AND ENJOYMENT OF THE OCEAN BEACHES.

The General Assembly of North Carolina enacts:

...  
**PART IV. FISHING LICENSES; TRANSITIONAL PROVISIONS**

...  
**Section 4.24.** Section 5.2 of S.L. 1997-400 reads as rewritten:

"Section 5.2. (a) Definitions; Citations. The definitions set out in G.S. 113-168 apply to this section. A citation to a provision of the General Statutes in this section means that provision of the General Statutes as enacted by this act.

(b) Transitional Provisions. In order to effect an orderly implementation of this Part and the transition from the moratorium imposed by subsection (a) of Section 3 of Chapter 576 of the 1993 Session Laws, Regular Session 1994, as amended by Section 3 of Chapter 675 of the 1993 Session Laws, Regular Session 1994; subsection (a) of Section 26.5 of Chapter 507 of the 1995 Session Laws; Section 7 of S.L. 1997-256; Section 3 of S.L. 1997-347; and Section 6.1 of this act, to the licensing provision of Article 14A of Chapter 113 of the General Statutes, the provisions of this section shall apply to the issuance of licenses under Article 14A of Chapter 113 of the General Statutes until all Fishery Management Plans have been adopted as required by G.S. 113-182.1 and G.S. 143B-289.22.

(c) Temporary Cap. There is hereby imposed a temporary cap on the total number of SCFLs that the Division may issue. The temporary cap equals the total number of endorsements to sell fish that establish eligibility for a SCFL under subsection (g) of this section plus 500 additional SCFLs, authorized by subsection (d) of this section.

(d) 1999-2000 License Year. For the 1999-2000 license year, the Commission is authorized to issue SCFLs as provided in subsection (g) of this section plus an additional 500 SCFLs using the procedure set out in subsection (h) of this section.

(e) Subsequent License Years. For license years beginning with the 2000-01 license year, the Commission is authorized to issue SCFLs from the pool of available SCFLs as provided in subsection (f) of this section using the procedure set out in subsection (h) of this section.

(f) Adjustment of Number of SCFLs. The number of SCFLs in the pool of available SCFLs in license years beginning with the 2000-01 license year is the temporary cap less the number of SCFLs that ~~are renewed~~ were issued and renewed during the previous license year. The Commission may increase or decrease the number of SCFLs that are issued from the pool of available SCFLs. The Commission may increase the number of SCFLs that are issued from the pool of available SCFLs up to the temporary cap. The Commission may decrease the number of SCFLs that are issued from the pool of available SCFLs but may not refuse to renew a SCFL that is issued during the previous license year and that has not been suspended or revoked. The Commission shall increase or decrease the number of SCFLs that are issued to reflect its determination as to the effort that the fishery can support, based on the best available scientific evidence.

(g) Eligibility for SCFL. Any person who holds a valid endorsement to sell fish of a vessel license on ~~4 July 30 June~~ 30 June 1999 is eligible to receive a SCFL. Any person who holds a valid nonvessel endorsement to sell fish, other than a nonvessel endorsement to sell fish issued for an aquaculture operation or a fishing tournament, on 30 June 1999 is eligible to receive a SCFL. The Division shall issue a SCFL to any person who is eligible under this subsection upon receipt of an application and required fees. If the person held more than one endorsement to sell fish, the person is eligible to receive a

SCFL for each endorsement to sell previously held. Eligibility to receive a SCFL under this subsection shall expire ~~July 30 June~~ 2000.

(h) Procedure for Issuing Additional SCFLs. The Commission shall determine a procedure for issuing the 500 additional SCFLs authorized by subsection (d) of this section for the 1999-2000 license year and for issuing SCFLs from the pool of available SCFLs authorized by subsection (e) of this section. The procedure shall set a date on which the Division will begin receiving applications and a date on which the determination by lot of which applicants will receive a SCFL will be made. The Commission shall develop criteria ~~for to be used by the SCFL Eligibility Board in~~ determining eligibility for a SCFL under this subsection. Criteria shall include the past involvement of the applicant and the applicant's family in commercial fishing; the extent to which the applicant has relied on commercial fishing for the applicant's livelihood; the extent to which the applicant has complied with federal and State laws, regulations, and rules relating to coastal fishing and protection of the environment; and any other factors the Commission determines to be relevant. ~~The Division-SCFL Eligibility Board shall review each application for a SCFL that it-the Division receives during the application period to determine whether the applicant is eligible for a SCFL under the eligibility criteria established by the Commission. The Division shall issue SCFLs under this subsection by lot. All applicants who are determined to be eligible shall have an equal chance of being issued a SCFL.~~

(i) SCFL Eligibility Board. There is established a SCFL Eligibility Board. The Board shall apply the eligibility criteria adopted by the Commission to determine whether an applicant for a SCFL is eligible for a SCFL under subsection (h) of this section. The Board shall consist of the Secretary of Environment and Natural Resources or the Secretary's designee, the Fisheries Director or the Director's designee, and the Chair of the Commission or the Chair's designee. The Secretary shall designate one member of the Board to serve as Chair of the Board. The Commission shall adopt rules to govern the operation of the Board. The Board is exempt from the provisions of Article 3 of Chapter 150B of the General Statutes. Decisions of the Board shall be subject to judicial review under the provisions of Article 4 of Chapter 150B of the General Statutes.

**PART V. MISCELLANEOUS PROVISIONS; EFFECTIVE DATES**

...  
**Section 5.6.** Sections 1.3, 1.5, 1.8, 2.1, 3.2, 3.8, 4.4, 4.5, 4.23, 5.1, 5.2, 5.3, 5.4, 5.5, and 5.6 of this act are effective when this act becomes law. Sections 3.7 and 3.9 of this act become effective December 1, 1998, and apply to offenses committed on or after that date. Sections 1.4, 3.3, 3.4, 3.10, 4.1, 4.2, 4.3, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, 4.19, 4.20, 4.21, 4.22, and 4.24 become effective July 1, 1999. Section 4.6 is effective retroactively to August 14, 1997. Sections 1.1, 1.2, 1.6, 1.7, 3.1, 3.5, 3.6, 4.7, and 4.8 are effective retroactively to September 1, 1997. Section 4.15 expires September 1, 2003.

In the General Assembly read three times and ratified this the 27th day of October, 1998.

s/ Frank W. Ballance, Jr.  
Deputy President Pro Tempore of the Senate

s/ Harold J. Brubaker  
Speaker of the House of Representatives

s/ James B. Hunt, Jr.  
Governor

Approved 4:28 p.m. this 5th day of November, 1998

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**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

**SESSION LAW 2003-64  
SENATE BILL 765**

AN ACT TO LIMIT THE AREA OF WESTERN CORE SOUND THAT MAY BE LEASED FOR THE CULTIVATION OF SHELLFISH AND TO DIRECT THE DIVISION OF MARINE FISHERIES TO REPORT TO THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE ON THE IMPLEMENTATION OF THIS ACT.

The General Assembly of North Carolina enacts:  
**SECTION 1.(a)** For purposes of this section:

(1) "Western Core Sound" is that part of Core Sound bounded by a line beginning at a point on Cedar Island at 35°00'39"N - 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N - 76°12'42"W, thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N - 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at 34°37'24"N - 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N - 76°31'12"W, thence following the shoreline in a northerly direction to the point of beginning except that the highway bridges at Salters Creek, Thorofare Bay, and the Rumley Bay ditch shall be considered shoreline.

(2) "Lease" means a shellfish cultivation lease granted pursuant to G.S. 113-202.

**SECTION 1.(b)** It is the intent of the General Assembly to permanently limit the area within Western Core Sound that may be leased for the cultivation of shellfish to the area that is subject to a lease on June 30, 2003.

**SECTION 1.(c)** Notwithstanding G.S. 113-202, the Secretary of Environment and Natural Resources may grant a new lease or renew an existing lease in an area of Western Core Sound only if the area is subject to a lease on June 30, 2003.

**SECTION 1.(d)** This section shall not prohibit the transfer of a lease as provided in G.S. 113-202(k).

**SECTION 2.** The Division of Marine Fisheries in the Department of Environment and Natural Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture on or before January 1, 2004, on the implementation of this act.

**SECTION 3.** Section 1 of this act becomes effective June 30, 2003. Sections 2 and 3 of this act are effective when this act becomes law.

In the General Assembly read three times and ratified this the 15<sup>th</sup> day of May, 2003.

s/ Marc Basnight  
President Pro Tempore of the Senate

s/ Richard T. Morgan  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 5:47 p.m. this 20<sup>th</sup> day of May, 2003

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NOTES: Session Law 2015-264, Section 69.(b) repealed Subdivision (4) of Section 1.2.(a) of Session Law 2011-291.  
Session Law 2015-241, Section 31.16.(b) repealed G.S. 120-76(9) of Section 1.2.(d) of Session Law 2011-291.

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**SESSION LAW 2011-291  
HOUSE BILL 595**

[Part I, Section 1.2(a)-(d) and Part III only]

AN ACT CHANGING THE STRUCTURE OF CERTAIN LEGISLATIVE COMMITTEES AND COMMISSIONS, TRANSFERRING THE DUTIES OF CERTAIN COMMITTEES AND COMMISSIONS TO OTHER COMMITTEES AND COMMISSIONS, CHANGING THE COMPOSITION OF VARIOUS LEGISLATIVE COMMITTEES AND COMMISSIONS, AND MAKING CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

**PART I. REORGANIZATION AND CONSOLIDATION OF LEGISLATIVE OVERSIGHT COMMITTEES**

...  
**JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS**

**SECTION 1.2.(a)** The duties of the following committees and commissions are transferred to the Joint Legislative Commission on Governmental Operations:

- (1) Joint Legislative Oversight Committee on Capital Improvements.
- (2) Joint Legislative Commission on Future Strategies for North Carolina.
- (3) Joint Select Committee on Low-Level Radioactive Waste.

- (4) Legislative Committee on New Licensing Boards.
- (5) Joint Legislative Commission on Seafood and Aquaculture.
- (6) Joint Legislative Utility Review Commission.

**SECTION 1.2.(b)** The following portions of Chapter 120 of the General Statutes are repealed:

- (1) G.S. 120-70.1 through G.S. 120-70.6, (Article 12A, pertaining to the Joint Legislative Utility Review Commission).
- (2) G.S. 120-70.31 through G.S. 120-70.37, (Article 12C, pertaining to the Joint Select Committee on Low-Level Radioactive Waste).
- (3) G.S. 120-70.60 through G.S. 120-70.66, (Article 12F, pertaining to the Joint Legislative Commission on Seafood and Aquaculture).
- (4) G.S. 120-84.6 through G.S. 120-84.12, (Article 13B, pertaining to the Joint Legislative Commission on Future Strategies for North Carolina).
- (5) G.S. 120-149.1 through G.S. 120-149.6, (Article 18A, pertaining to the Legislative Committee on New Licensing Boards).
- (6) G.S. 120-258 through G.S. 120-260, (Article 29, pertaining to the Joint Legislative Oversight Committee on Capital Improvements).

**SECTION 1.2.(c)** G.S. 120-74 reads as rewritten:

**"§ 120-74. Appointment of members; terms of office.**

The Commission shall consist of ~~38~~42 members. The President pro tempore of the Senate, the Speaker pro tempore of the House, the Deputy President pro tempore of the Senate, the Majority Leader of the House of Representatives, and the Majority Leader of the Senate and the Speaker of the House shall serve as ex officio members of the Commission. The Speaker of the House of Representatives shall appoint ~~16~~21 members from the ~~House~~House, at least five of whom are members of the minority party. The President pro tempore of the Senate shall appoint ~~16~~21 members from the ~~Senate~~Senate, at least five of whom are members of the minority party. Vacancies created by resignation or otherwise shall be filled by the original appointing authority. Members shall serve two-year terms beginning and ending on January 15 of the odd-numbered years. Members shall not be disqualified from completing a term of service on the Commission because they fail to run or are defeated for reelection. Resignation or removal from the General Assembly shall constitute resignation or removal from membership on the Commission."

**SECTION 1.2.(d)** G.S. 120-76 reads as rewritten:

**"§ 120-76. Powers and duties of the Commission.**

The Commission shall have the following powers:

- (1) To conduct program evaluation studies of the various components of State agency activity as they relate to:
  - a. Service benefits of each program relative to expenditures;
  - b. Achievement of program goals;
  - c. Use of indicators by which the success or failure of a program may be gauged; and
  - d. Conformity with legislative intent.
- (2) To study legislation which would result in new programs with statewide implications for feasibility and need. These studies may be jointly conducted with the Fiscal Research Division of the Legislative Services Commission.
- (3) To study on a continuing basis the implementation of State government reorganization with respect to:
  - a. Improvements in administrative structure, practices and procedures;
  - b. The relative effectiveness of centralization and decentralization of management decisions for agency operation;
  - c. Opportunities for effective citizen participation; and
  - d. Broadening of career opportunities for professional staff.
- (4) To make such studies and reports of the operations and functions of State government as it deems appropriate or upon petition by resolution of either the Senate or the House of Representatives.
- (5) To produce routine written reports of findings for general legislative and public distribution. Special attention shall be given to the presentation of findings to the appropriate committees of the Senate and the House of Representatives. If findings arrived at during a study have a potential impact on either the finance or appropriations deliberations, such findings shall immediately be presented to the committees. Such reports shall contain recommendations for appropriate executive action and when legislation is considered necessary to effect change, draft legislation for that purpose may be included. Such reports as are submitted shall include but not be limited to the following matters:
  - a. Ways in which the agencies may operate more economically and efficiently;
  - b. Ways in which agencies can provide better services to the State and to the people; and

- c. Areas in which functions of State agencies are duplicative, overlapping, or failing to accomplish legislative objectives, or for any other reason should be redefined or redistributed.
- (6) To devise a system, in cooperation with the Fiscal Research Division of the Legislative Services Commission, whereby all new programs authorized by the General Assembly incorporate an evaluation component. The results of such evaluations may be made to the Appropriations Committees at the beginning of each regular session.
- (7) To evaluate and approve or deny requests from the Department of Transportation regarding the funding of federally eligible construction projects as provided in the fourth paragraph of G.S. 136-44.2.
- (8) The Joint Legislative Commission on Governmental Operations shall be consulted by the Governor before the Governor does any of the following:
  - a. Repealed by Session Laws 2007-117, s. 2, effective July 1, 2007.
  - b. Authorizes expenditures in excess of the total requirements of a purpose or program as enacted by the General Assembly and as provided by G.S. 143C-6-4.
  - c. Proceeds to reduce programs subsequent to a reduction of ten percent (10%) or more in the federal fund level certified to a department and any subsequent changes in distribution formulas.
  - d. Takes extraordinary measures under Article III, Section 5(3) of the Constitution to effect necessary economies in State expenditures required for balancing the budget due to a revenue shortfall, including, but not limited to, the following: loans among funds, personnel freezes or layoffs, capital project reversions, program eliminations, and use of reserves. However, if the Committee fails to meet within 10 calendar days of a request by the Governor for its consultation, the Governor may proceed to take the actions he feels are appropriate and necessary and shall then report those actions at the next meeting of the Commission.
  - e. Approves a new capital improvement project funded from gifts, grants, receipts, special funds, self-liquidating indebtedness, and other funds or any combination of funds for the project not specifically authorized by the General Assembly. The budget for each capital project must include projected revenues in an amount not less than projected expenditures.
- (9) To examine, on a continuing basis, capital improvements approved and undertaken for State facilities and institutions and to have oversight over implementation of the six-year capital improvements plan developed pursuant to G.S. 143C-8-5.
- (10) To establish a subcommittee to evaluate the need for any new licensing board by establishing criteria and procedures for reviewing proposed licensing boards. To assure that no new licensing board shall be established unless the following criteria are met:
  - a. The unregulated practice of the profession or occupation can substantially harm or endanger the public health, safety, or welfare, and the potential for such harm is recognizable and not remote or dependent upon tenuous argument.
  - b. The profession or occupation possesses qualities that distinguish it from ordinary labor.
  - c. Practice of the profession or occupation requires specialized skill or training.
  - d. A substantial majority of the public does not have the knowledge or experience to evaluate whether the practitioner is competent.
  - e. The public is not effectively protected by other means.
  - f. Licensure will not have a substantial adverse economic impact upon consumers of the practitioner's goods or services.
- (11) To evaluate the North Carolina Utilities Commission, by doing the following:
  - a. Reviewing the actions of the North Carolina Utilities Commission, including the review of its interim and final orders, to the end that the members of the General Assembly may better judge whether these actions serve the best interest of the citizens of North Carolina, individual and corporate.
  - b. Inquiring into the role of the North Carolina Utilities Commission, the Public Staff, and the several utility companies in the development of alternate sources of energy.
  - c. Submitting evaluations to the General Assembly, from time to time, of the performance of the North Carolina Utilities Commission, the Public Staff, and the various utilities operating in the State. A proposed draft of such evaluations shall be submitted to the North Carolina Utilities Commission, the Public Staff, and the affected public utilities prior to submission to the General Assembly, and the affected entity shall be given an opportunity to be heard before the Commission prior to the completion of the evaluation and its submission to the General Assembly.

- (12) To make reports and recommendations to the General Assembly, from time to time, on matters relating to the powers and duties set out in this section.
- (13) To review and evaluate changes in federal law and regulations, relevant court decisions, and changes in technology affecting any of the duties of the Commission.
- (14) To review and evaluate changes in federal law and regulation, or changes brought about by court actions, as well as changes in technology affecting any of the duties of the Commission, to determine whether the State's laws require modification as a result of those changes.
- (15) With regard to seafood and aquaculture:
  - a. To monitor and study the seafood industry in North Carolina, including studies of the feasibility of increasing the State's production, processing, and marketing of seafood.
  - b. To study the potential for increasing the role of aquaculture in all regions of the State.
  - c. To evaluate the feasibility of creating a central permitting office for fishing and aquaculture matters.
  - d. To evaluate actions of the Division of Marine Fisheries of the Department of Environment and Natural Resources, the Wildlife Resources Commission of the Department of Environment and Natural Resources and of any other State or local government agency as such actions relate to the seafood and aquaculture industries.
  - e. To make recommendations regarding regulatory matters relating to the seafood and aquaculture industries including, but not limited to evaluating the necessity to substantially increase penalties for trespass and theft of shellfish and other aquaculture products.
  - f. To review and evaluate changes in federal law and regulations, relevant court decisions, and changes in technology affecting the seafood and aquaculture industries.
  - g. To review existing and proposed State law and rules affecting the seafood and aquaculture industries and to determine whether any modification of law or rules is in the public interest."

...

**PART III. EFFECTIVE DATE**

**SECTION 3.** Unless otherwise provided, this act is effective when it becomes law. In the General Assembly read three times and ratified this the 15<sup>th</sup> day of June, 2011.

s/ Walter H. Dalton  
President of the Senate

s/ Thom Tillis  
Speaker of the House of Representatives

s/ Beverly E. Perdue  
Governor

Approved 4:38 p.m. this 24<sup>th</sup> day of June, 2011

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**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015**

**SESSION LAW 2015-241  
HOUSE BILL 97  
[Sections 14.10A. and 33.7. only]**

AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

...

**SIMPLIFY OYSTER RESTORATION PROJECT PERMITTING**

**SECTION 14.10A.(a)** The Division of Marine Fisheries and Division of Coastal Management of the Department of Environment and Natural Resources shall, in consultation with representatives of nongovernmental

conservation organizations working on oyster restoration, create a new permitting process specifically designed for oyster restoration projects that apply to oyster restoration projects instead of a major development permit under G.S. 113A-118. The Department shall submit its report, including recommended legislation, to the Environmental Review Commission no later than May 1, 2016.

**SECTION 14.10A.(b)** Until the effective date of the revised permanent rule that the Coastal Resources Commission is required to adopt pursuant to subsection (d) of this section, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 03O .0503(g) (Scientific or Educational Activity Permit) as provided in subsection (c) of this section.

**SECTION 14.10A.(c)** Notwithstanding 15A NCAC 03O .0503(g) (Scientific or Educational Activity Permit), the Division of Marine Fisheries may issue a scientific or educational activity permit for approved activities conducted by or under the direction of a nongovernmental conservation organization in addition to a scientific or educational institution. For purposes of this section, a nongovernmental conservation organization is defined as an organization whose primary mission is the conservation of natural resources.

**SECTION 14.10A.(d)** The Environmental Management Commission shall adopt rules to amend 15A NCAC 03O .0503(g) and any other cross-referenced rules consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this subsection shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this subsection are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this subsection shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

**SECTION 14.10A.(e)** This section is effective when this act becomes law. Subsection (c) of this section expires on the date that rules adopted pursuant to subsection (d) of this section become effective.

...

#### **EFFECTIVE DATE**

**SECTION 33.7.** Except as otherwise provided, this act becomes effective July 1, 2015.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of September, 2015.

s/ Tom Apodaca  
Presiding Officer of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Pat McCrory  
Governor

Approved 9:35 a.m. this 18<sup>th</sup> day of September, 2015

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NOTE: Session Law 2018-114, Section 17 amended Section 3.1.(c) of Session Law 2017-190.

### **GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017**

#### **SESSION LAW 2017-190 SENATE BILL 410**

[Sections 3.1.(a), (b), (d), and (e) and 4. only]

AN ACT TO ESTABLISH A PROGRAM FOR THE LEASING OF PUBLIC BOTTOM AND SUPERJACENT WATER COLUMN FOR MARINE AQUACULTURE, TO REQUIRE THE DIVISION OF MARINE FISHERIES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO REQUEST THE ISSUANCE OF FEDERAL RULES TO ALLOW MARINE AQUACULTURE IN FEDERAL WATERS OFF THE COAST OF THE STATE, AND TO ESTABLISH ADDITIONAL TRANSPARENCY REQUIREMENTS FOR MEMBERS OF THE MARINE FISHERIES COMMISSION.

The General Assembly of North Carolina enacts:

...

**SECTION 3.1.(a)** Definitions. – "Importation of Marine and Estuarine Organisms Rule" means 15A NCAC 03I .0104 (Introduce, Transfer or Hold Imported Marine and Estuarine Organisms) for purposes of this section and its implementation.

**SECTION 3.1.(b)** Importation of Marine and Estuarine Organisms Rule. – Until the effective date of the revised permanent rule that the Marine Fisheries Commission is required to adopt pursuant to subsection (d) of this section, the Commission and the Division of Marine Fisheries of the Department of Environmental Quality shall implement the Importation of Marine and Estuarine Organisms Rule, as provided in subsection (c) of this section.

...

**SECTION 3.1.(d)** Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Importation of Marine and Estuarine Organisms Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission, pursuant to this section, shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

**SECTION 3.1.(e)** Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

...

**SECTION 4.** Section 1 of this act becomes effective October 1, 2017. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of June, 2017.

s/ Daniel J. Forest  
President of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Roy Cooper  
Governor

Approved 8:31 a.m. this 27<sup>th</sup> day of July, 2017

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**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017**

**SESSION LAW 2018-114  
HOUSE BILL 374  
[Sections 17. and 30. only]**

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

...

**ALLOW AMERICAN EELS TO BE IMPORTED FROM MARYLAND FOR AQUACULTURE PURPOSES**  
**SECTION 17.** Section 3.1(c) of S.L. 2017-190 reads as rewritten:

“SECTION 3.1.(c) Implementation. – Use of American eels imported from ~~Virginia~~ Maryland, Virginia, or South Carolina in an aquaculture operation is exempt from the permitting requirements of the Importation of Marine and Estuarine Organisms Rule.”

...

**SECTION 30.** Except as otherwise provided, this act is effective when it becomes law. In the General Assembly read three times and ratified this the 15<sup>th</sup> day of June, 2018.

s/ Bill Rabon  
Presiding Officer of the Senate

s/ David R. Lewis  
Presiding Officer of the House of Representatives

VETO Roy Cooper  
Governor

Became law notwithstanding the objections of the Governor at 5:57 p.m. this 27<sup>th</sup> day of June, 2018.

s/ Sarah Lang Holland  
Senate Principal Clerk

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**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019**

**SESSION LAW 2019-37  
SENATE BILL 648**

[Sections 1.(d), 2., 3., 7.-9., and 13. only]

AN ACT TO PROVIDE FURTHER SUPPORT TO THE SHELLFISH AQUACULTURE INDUSTRY IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

**AUTHORIZE ESTABLISHMENT OF SHELLFISH AQUACULTURE ENTERPRISE AREAS**

...

**SECTION 1.(d)** The Division of Marine Fisheries of the Department of Environmental Quality shall identify areas in waters that are under a moratorium for shellfish leasing that could potentially be established as Shellfish Aquaculture Enterprise Areas. The Division shall report its findings to the General Assembly no later than April 1, 2020.

**ESTABLISH PAMLICO SOUND SHELLFISH AQUACULTURE PILOT PROJECT**

**SECTION 2.** Notwithstanding any other provision of law, the Secretary of Environmental Quality may grant up to three shellfish cultivation leases or water column leases in Pamlico Sound as provided in the pilot project established by this section. Under the pilot project, each lease may be up to 50 acres in size; each lease must be separated from any other lease and from the shoreline by at least 250 yards; and no person, including a corporate entity, or single family unit, may hold more than 100 acres of leases. The Division of Marine Fisheries of the Department of Environmental Quality shall, to the extent practicable, grant leases in different geographic areas of Pamlico Sound. The Division shall study the advantages and disadvantages associated with leasing such areas within Pamlico Sound. In conducting this study, the Division shall consult with shellfish growers, nearby riparian owners, and other users of the public bottoms and waters. The Division shall submit an interim report of its findings, including any recommendations, to the General Assembly no later than January 1, 2025, and a final report of its findings, including any recommendations, to the General Assembly no later than January 1, 2030. In its final report, the Division shall include a recommendation on whether the pilot project should be terminated, be made permanent, or be expanded. This section shall terminate July 1, 2030, and any leases granted pursuant to this section shall terminate no later than July 1, 2031.

**INCREASE PRODUCTION AND PLANTING REQUIREMENTS FOR SHELLFISH LEASES**

**SECTION 3.(a)** Definitions. – For purposes of this section and its implementation:

- (1) "Extensive shellfish culture" means shellfish grown on the bottom without the use of cages, racks, bags, or floats.
- (2) "Intensive shellfish culture" means shellfish grown on the bottom or in the water column using cages, racks, bags, or floats.
- (3) "Shellfish Production and Planting Requirements Rule" means 15A NCAC 03O .0201 (Standards and Requirements for Shellfish Bottom Leases and Franchises and Water Column Leases) for purposes of this section and its implementation.

**SECTION 3.(b)** Shellfish Production and Planting Requirements Rule. – Until the effective date of the revised permanent rule that the Marine Fisheries Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Shellfish Production Requirements Rule as provided in subsection (c) of this section.

**SECTION 3.(c)** Implementation. – Shellfish leases shall be terminated unless they comply with the following requirements:

- (1) Franchises recognized pursuant to G.S. 113-206 and shellfish bottom leases shall be terminated unless:
  - a. They produce a minimum of 20 bushels of shellfish per acre averaged over the previous three-year period beginning in year five of the lease; or
  - b. For intensive culture bottom operations, the holder of the lease provides evidence of purchasing a minimum of 23,000 shellfish seed per acre annually and for extensive culture bottom operations, the holder of the lease plants a minimum of 15,000 shellfish seed per acre per year.
- (2) Water column leases shall be terminated unless:
  - a. They produce a minimum of 50 bushels of shellfish per acre averaged over the previous three-year period beginning in year five of the lease; or
  - b. The holder of the lease provides evidence of purchasing a minimum of 23,000 shellfish seed per acre annually.

**SECTION 3.(d)** Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Shellfish Production Requirements Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

**SECTION 3.(e)** Applicability and Sunset. – This section and rules adopted pursuant to this section apply to all new and renewal shellfish leases granted after July 1, 2019. This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

...

**MORATORIUM ON SHELLFISH LEASING IN THE NEW HANOVER COUNTY AREA**

**SECTION 7.** Notwithstanding G.S. 113-202 and G.S. 113-202.1, a moratorium on new shellfish cultivation leases and new water column leases for aquaculture shall be imposed for all those waters enclosed by a line beginning at 34° 13.10221' N -77° 48.79544' W on the mainland side near Wrightsville Beach Bridge; running southeasterly to a point at 34° 12.51584' N -77° 47.81847' W on Wrightsville Beach; following the shoreline southwesterly to a point at 34° 11.121' N -77° 48.848' W at Masonboro Inlet; running southwesterly to a point at 34° 10.927' N -77° 48.771' W at Masonboro Inlet; continuing southwesterly to a point at 34° 05.04108' N -77° 52.08324' W near IWW marker #159 continuing running southwesterly to a point at 34° 03.64140' N -77° 53.41338' W on the mainland adjacent to the eastern mouth of Snow's Cut; running northeasterly along the shoreline to the point of beginning. The moratorium shall expire July 1, 2021. For purposes of this section, a new shellfish cultivation lease or water column lease shall include applications for either type of lease received by the Secretary, but not granted as of July 1, 2019.

**MORATORIUM ON SHELLFISH LEASING IN BOGUE SOUND**

**SECTION 8.** Notwithstanding G.S. 113-202 and G.S. 113-202.1, a moratorium on new shellfish cultivation leases and new water column leases for aquaculture shall be imposed for all those waters enclosed by a line beginning at 34° 43.24641' N -76° 41.68436' W; running easterly following the Highway 70 High Rise Bridge to a point at 34° 43.27819' N -76° 41.22259' W; running southerly to a point 34° 42.375275' N -76° 40.80078' W on the southern tip of Radio Island; running southerly to a point 34° 41.98273' N -76° 40.81929' W; following the shoreline westerly to the Emerald Isle Bridge at a point 34° 40.05410' N -77° 03.80531' W; running northwesterly following the bridge to a point 34° 40.77658' N -77° 04.02674' W on the mainland near the Emerald Isle High Rise Bridge; running easterly following the shoreline to the point of beginning. The moratorium shall expire July 1, 2021. For purposes of this section, a new shellfish cultivation lease or

water column lease shall include applications for either type of lease received by the Secretary, but not granted as of July 1, 2019.

**STUDY HOW TO REDUCE USER CONFLICT RELATED TO SHELLFISH CULTIVATION LEASES**

**SECTION 9.** The Division of Marine Fisheries and the Marine Fisheries Commission shall study how to reduce user conflict related to shellfish cultivation leases. The Division and Commission shall complete this study no later than January 1, 2020, and shall adopt rules and reform internal operating procedures consistent with the findings of the study no later than March 1, 2021.

...

**SEVERABILITY CLAUSE AND EFFECTIVE DATE**

**SECTION 13.(a)** If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

**SECTION 13.(b)** Except as otherwise provided, this act becomes effective July 1, 2019.

In the General Assembly read three times and ratified this the 13<sup>th</sup> day of June, 2019.

s/ Daniel J. Forest  
President of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Roy Cooper  
Governor

Approved 2:31 p.m. this 21<sup>st</sup> day of June, 2019

## INDEX

A “◆” symbol is used in the index of the rulebook as a visual sign to alert readers there may be a public notice, or proclamation, for a subject. The Marine Fisheries Commission has the authority to delegate to the Fisheries Director the ability to issue proclamations, suspending or implementing particular commission rules that may be affected by variable conditions. For example, the index entry “**species, bluefish◆**” indicates there may be a proclamation outlining harvest restrictions or other information for that species. Proclamations are not included in this book because they change frequently.

Go to <http://portal.ncdenr.org/web/mf/proclamations> to view proclamations and learn about the restrictions. If you do not have Internet access, please call 252-726-7021 or 800-682-2632 to find out how to receive proclamation information. It is imperative that persons affected by proclamations keep themselves informed.

**Please note:** entries for fishing gear and equipment are listed alphabetically under the heading “**gear.**” **Other major headings** in the index include “**lease,**” “**license,**” “**permit,**” and “**species.**” For example, to look up information about flounder, see “species, flounder.”

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CHAPTER 03 AND CHAPTER 18 OF THE N.C.  
ADMINISTRATIVE CODE ARE ON FILE IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS AND ARE AVAILABLE FOR  
PUBLIC INSPECTION DURING NORMAL WORKING HOURS.

THESE BOOKS ARE AVAILABLE FROM:  
N.C. DIVISION OF MARINE FISHERIES  
P.O. BOX 769  
3441 ARENDELL STREET  
MOREHEAD CITY, NC 28557  
1-800-682-2632 or 252-726-7021  
<http://portal.ncdenr.org/web/mf>

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### **CERTIFICATION**

PURSUANT TO G.S. 113-221 (B) AND G.S. 113-221 (G), THIS IS TO CERTIFY THAT THE PRECEDING "NORTH CAROLINA MARINE FISHERIES COMMISSION RULES APRIL 1, 2020" IS THE OFFICIAL CODIFICATION OF THE RULES OF THE N.C. MARINE FISHERIES COMMISSION EFFECTIVE AS OF APRIL 1, 2020.



STEPHEN MURPHEY, DIRECTOR  
N.C. DIVISION OF MARINE FISHERIES